
ANNALS
OF
THE CONGRESS OF THE UNITED STATES.

SIXTH CONGRESS.

THE
DEBATES AND PROCEEDINGS
IN THE
CONGRESS OF THE UNITED STATES;
WITH
AN APPENDIX,
CONTAINING
IMPORTANT STATE PAPERS AND PUBLIC DOCUMENTS,
AND ALL
THE LAWS OF A PUBLIC NATURE;
WITH A COPIOUS INDEX.

SIXTH CONGRESS.

COMPRISING THE PERIOD FROM DECEMBER 2, 1799, TO MARCH 3, 1801,
INCLUSIVE.

COMPILED FROM AUTHENTIC MATERIALS.

WASHINGTON:
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1851.

PROCEEDINGS

OF

THE SENATE OF THE UNITED STATES,

AT THE FIRST SESSION OF THE SIXTH CONGRESS, BEGUN AT THE CITY OF
PHILADELPHIA, DECEMBER 2, 1799.

MONDAY, December 2, 1799.

The first session of the sixth Congress, conformably to the Constitution, commenced this day, and the Senate assembled, in their Chamber, at the city of Philadelphia.

PRESENT:

JOHN LANGDON, from New Hampshire;
BENJAMIN GOODHUE, from Massachusetts;
THEODORE FOSTER, from Rhode Island;
JAMES HILLHOUSE and URIAH TRACY, from Connecticut;
JOHN LAURANCE and JAMES WATSON, from New York;
WILLIAM BINGHAM, from Pennsylvania;
HUMPHREY MARSHALL, from Kentucky;
JACOB READ, from South Carolina;
JAMES GUNN, from Georgia.

JOSEPH ANDERSON, appointed a Senator by the State of Tennessee, for the remainder of the term for which their late Senator, Andrew Jackson, was appointed; ABRAHAM BALDWIN, appointed a Senator by the State of Georgia; JOHN BROWN, appointed a Senator by the State of Kentucky; SAMUEL DEXTER, appointed a Senator by the State of Massachusetts; SAMUEL LIVERMORE, appointed a Senator by the State of New Hampshire; and WILLIAM HILL WELLS, appointed a Senator by the State of Delaware; severally produced their credentials, and took their seats in the Senate.

The VICE PRESIDENT being absent, the Senate proceeded to the election of a President *pro tempore*, as the Constitution provides, and SAMUEL LIVERMORE was chosen.

Ordered, That Mr. READ administer the oath required by law to the President of the Senate *pro tempore*.

The PRESIDENT administered the oath, as the law prescribes, to MESSRS. ANDERSON, BALDWIN, BROWN, DEXTER, and WELLS.

Ordered, That the Secretary wait upon the PRESIDENT OF THE UNITED STATES, and acquaint him that a quorum of the Senate is assembled, and that, in the absence of the VICE PRESIDENT, they have elected SAMUEL LIVERMORE President of the Senate *pro tempore*.

Ordered, That the Secretary acquaint the House of Representatives that a quorum of the Senate is assembled and ready to proceed to business, and

that, in the absence of the VICE PRESIDENT, they have elected SAMUEL LIVERMORE President of the Senate *pro tempore*.

Resolved, That each Senator be supplied, during the present session, with three such newspapers, printed in any of the States, as he may choose, provided, that the same be furnished at the rate usual for the annual charge of such papers.

A message from the House of Representatives informed the Senate that a quorum of the House is assembled, and have elected THEODORE SEDGWICK their Speaker.

Ordered, That MESSRS. READ and BINGHAM be a committee on the part of the Senate, together with such committee as the House of Representatives may appoint on their part, to wait on the President of the United States, and notify him that a quorum of the two Houses is assembled, and ready to receive any communications that he may be pleased to make to them.

The PRESIDENT communicated a letter signed John Trumbull, presenting to the Senate of the United States impressions of two prints of the American Revolution, which he had lately caused to be published; and the letter was read.

Ordered, That it lie on the table.

The Senate adjourned to 11 o'clock to-morrow morning.

TUESDAY, December 3.

WILLIAM COCKE, appointed a Senator by the State of Tennessee, and JAMES SCHUREMAN, appointed a Senator by the State of New Jersey, in the room of John Rutherford, resigned, severally produced their credentials, were qualified, and took their seats in the Senate.

HENRY LATIMER, from the State of Delaware, and JAMES ROSS, from the State of Pennsylvania, severally attended.

A message from the House of Representatives informed the Senate that a quorum of the House is assembled, and have appointed a joint committee on their part, together with such committee as the Senate may appoint on theirs, to wait on the President of the United States, and notify him that a quorum of the two Houses is assembled, and ready to receive any communications that he may be pleased to make to them.

Mr. READ reported from the joint committee

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appointed for the purpose, that they had waited on the President of the United States, and had notified him that a quorum of the two Houses of Congress were assembled; and that the President of the United States acquainted the committee, that he would meet the two Houses, this day, at 12 o'clock, in the Chamber of the House of Representatives.

A message from the House of Representatives informed the Senate that the House are now ready to meet the Senate, in the Chamber of that House, to receive such communications as the President of the United States shall be pleased to make to them.

Whereupon the Senate repaired to the Chamber of the House of Representatives, for the purpose above expressed.

The Senate then returned to their own Chamber, and a copy of the Speech of the President of the United States, this day addressed to both Houses of Congress, was read. (For which, see House Proceedings, *post*.)

Ordered, That Messrs. ROSS, READ, and TRACY, be a committee to report the draught of an Address to the President of the United States, in answer to his Speech this day to both Houses.

Ordered, That the Speech of the President of the United States, this day communicated to both Houses of Congress, be printed for the use of the Senate.

Resolved, That two Chaplains of different denominations, be appointed to Congress for the present session, one by each House, who shall interchange weekly.

The Senate proceeded to the appointment of a Chaplain to Congress on their part, and the Right Reverend Bishop WHITE was unanimously elected.

WEDNESDAY, December 4.

The Senate assembled, but transacted no business.

THURSDAY, December 5.

JONATHAN DAYTON, appointed a Senator by the State of New Jersey, and RAY GREENE, appointed a Senator by the State of Rhode Island, severally produced their credentials, were qualified, and took their seats in the Senate.

A message from the House of Representatives informed the Senate that the House concur in the resolution for the appointment of Chaplains, and have elected the Rev. Doctor ASHBEL GREEN a Chaplain to Congress on their part.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

I transmit to Congress certain documents which have relation to the communications made on Tuesday, on the subjects of the insurrection in Pennsylvania, the renewal of commerce with St. Domingo, and the mission to the French Republic.

JOHN ADAMS.

UNITED STATES, December 5, 1799.

The Message and papers therein referred to were read.

Ordered, That they lie for consideration, and that the Message and papers be printed for the use of the Senate.

Mr. ANDERSON presented the petition of Samuel Glass and others, praying compensation for a number of horses, stated to have been stolen from them by certain Indians on the frontiers; which was read, and referred to Messrs. ANDERSON, HILLHOUSE, and GOODHUE, to consider and report thereon to the Senate.

FRIDAY, December 6.

Mr. DEXTER notified the Senate, that he should, on Monday next, ask leave to bring in a bill to revive the act, entitled, "An act for the relief of persons imprisoned for debt."

Mr. ROSS, from the committee appointed to draught an Address, in answer to the Speech of the President of the United States, to the two Houses of Congress at the opening of the session, made a report; which was read.

Ordered, That it lie for consideration.

MONDAY, December 9.

ELIJAH PAINE, from the State of Vermont, attended.

The PRESIDENT laid before the Senate a letter from Samuel Meredith, Treasurer, together with his Specie, War, and Navy accounts, ending the 31st of December, 1798, March 31st, and June 30th, 1799, and Navy and War accounts to September 30th, 1799; which were read.

Ordered, That they lie on file.

Agreeably to notice given, Mr. DEXTER had leave to bring in a bill to revive the act, entitled, "An act for the relief of persons imprisoned for debt," which was read; and, by unanimous consent, the bill was read the second time.

Ordered, That it be referred to Messrs. DEXTER, LAURANCE, and TRACY, to consider and report thereon to the Senate.

The Senate proceeded to consider the report of the committee of the draught of an Address in answer to the Speech of the President of the United States to both Houses of Congress, at the opening of the session; which, being read in paragraphs, was adopted, as follows:

To the President of the United States:

Accept, Sir, the respectful acknowledgments of the Senate of the United States for your Speech delivered to both Houses of Congress at the opening of the present session.

While we devoutly join you in offering our thanks to Almighty God, for the return of health to our cities, and for the general prosperity of the country, we cannot refrain from lamenting that the arts and calumnies of factious, designing men have excited open rebellion a second time in Pennsylvania; and thereby compelled the employment of military force to aid the civil authority in the execution of the laws. We rejoice that your vigilance, energy, and well-timed exertions, have crushed so daring an opposition, and prevented the spreading

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of such treasonable combinations. The promptitude and zeal displayed by the troops called to suppress this insurrection deserve our highest commendation and praise, and afford a pleasing proof of the spirit and alacrity with which our fellow-citizens are ready to maintain the authority of our excellent Government.

Knowing, as we do, that the United States are sincerely anxious for a fair and liberal execution of the Treaty of Amity, Commerce, and Navigation, entered into with Great Britain, we learn, with regret, that the progress of adjustment has been interrupted, by a difference of opinion among the commissioners. We hope, however, that the justice, the moderation, and the obvious interests of both parties, will lead to satisfactory explanations, and that the business will then go forward to an amicable close of all differences and demands between the two countries. We are fully persuaded that the Legislature of the United States will cheerfully enable you to realize your assurances of performing, on our part, all engagements under our treaties, with punctuality, and the most scrupulous good faith.

When we reflect upon the uncertainty of the result of the late mission to France, and upon the uncommon nature, extent, and aspect, of the war now raging in Europe—which affects materially our relations with the Powers at war, and which has changed the condition of their colonies in our neighborhood—we are of opinion, with you, that it would be neither wise nor safe to relax our measures of defence, or to lessen any of our preparations to repel aggression.

Our inquiries and attention shall be carefully directed to the various other important subjects which you have recommended to our consideration; and from our experience of your past administration, we anticipate, with the highest confidence, your strenuous co-operation in all measures which have a tendency to promote and extend our national interests and happiness.

SAMUEL LIVERMORE,

President of the Senate, pro tempore.

Ordered, That the committee who prepared the Address wait on the President of the United States, and desire him to acquaint the Senate at what time and place it will be most convenient for him that it should be presented.

Mr. Ross reported, from the committee, that they had waited on the President of the United States, and that he would receive the Address of the Senate to-morrow at 12 o'clock, at his own house.

Whereupon, *Resolved,* That the Senate will, to-morrow, at 12 o'clock, wait on the President of the United States accordingly.

Mr. Ross notified the Senate that he should to-morrow ask leave to bring in a bill to revive certain suits and process in the Circuit Court for the district of Pennsylvania, which have been discontinued.

TUESDAY, December 10.

Agreeably to the resolution of yesterday, the Senate waited on the President of the United States, and the President of the Senate, in their name, presented the Address then agreed to.

To which the PRESIDENT of the UNITED STATES made the following reply:

Gentlemen of the Senate:

I thank you for this Address. I wish you all possible

success and satisfaction in your deliberations on the means which have a tendency to promote and extend our national interests and happiness; and I assure you that, in all your measures directed to those great objects, you may, at all times, rely with the highest confidence on my cordial co-operation.

The praise of the Senate, so judiciously conferred on the promptitude and zeal of the troops, called to suppress the insurrection, as it falls from so high authority, must make a deep impression, both as a terror to the disobedient, and an encouragement of such as do well.

JOHN ADAMS.

UNITED STATES, December 10, 1799.

The Senate returned to their own Chamber, and proceeded to the consideration of Executive business.

WEDNESDAY, December 11.

NATHANIEL CHIPMAN, from the State of Vermont, attended.

The PRESIDENT laid before the Senate a report from the Commissioners of the Sinking Fund; which was read.

Ordered, That it be printed for the use of the Senate.

The PRESIDENT laid before the Senate a report from the Secretary for the Department of State, in pursuance of the "Act to revive and continue in force certain parts of the 'Act for the relief and protection of American seamen,' and to amend the same," with abstracts of all the returns, made by the collectors of the different ports, of registered seamen, and of impressed seamen; together with a report, exhibiting abstracts of the communications received from the agents employed by virtue of that act; which were read.

Ordered That they be printed for the use of the Senate.

Agreeably to notice given, Mr. Ross obtained leave to bring in a bill for reviving and continuing suits and proceedings in the Circuit Court for the District of Pennsylvania; and the bill was read; and, by unanimous consent, it was read the second time and referred to Messrs. ROSS, CHIPMAN, and DEXTER, to consider and report thereon to the Senate.

Ordered, That the report of the Secretary for the Department of State, respecting impressed seamen, together with the papers therein referred to, be committed to Messrs. READ, GOODHUE, and BINGHAM, to consider and report thereon to the Senate.

Mr. DEXTER from the committee to whom was referred the bill, to revive the act entitled "An act for the relief of persons imprisoned for debt," reported amendments, which were read and adopted; and the bill being further amended,

Ordered, That it pass to a third reading.

THURSDAY, December 12.

JAMES LLOYD, from the State of Maryland, attended.

The bill to revive the act, entitled "An act for the relief of persons imprisoned for debt," was read the third time and passed.

Mr. GREENE presented the petition of Joseph

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Russell, jr., and others, stating that there is due to them from the United States interest on twenty-four thousand four hundred dollars, according to a resolution of Congress of the 18th March 1780, and praying payment; which petition was read and referred to Messrs. GREENE, TRACY, and HILLHOUSE, to consider and report thereon to the Senate.

Mr. DEXTER presented the petitions of Michael Jackson and others, on the subject last mentioned, which were referred to the same committee, to consider and report thereon to the Senate.

On motion, by Mr. HILLHOUSE, that a committee be appointed to revise the law, entitled "An act to prohibit the carrying on the slave trade from the United States to any foreign place or country," and to make such amendments or alterations as shall be found necessary more effectually to prevent the carrying on such trade, it was agreed that this motion lie until to-morrow for consideration.

Ordered, That the letter signed John Trumbull, communicated on the 2d inst., be referred to Messrs. TRACY, LAURANCE, and WATSON, to consider and report thereon to the Senate.

Mr. ANDERSON presented the petition of Daniel Smith, praying compensation for a negro, and also for several horses, stated to have been stolen by the Indians; which was read, and referred to the committee appointed the 5th inst., on the petition of Samuel Glass and others, to consider and report thereon to the Senate.

Mr. MARSHALL presented the petition of Margaret Lapsley, praying the renewal of certain certificates therein mentioned, and stated to have been lost; and the petition was read, and referred to Messrs. MARSHALL, TRACY, and DAYTON, to consider and report thereon to the Senate.

Ordered, That Messrs. TRACY, LAURANCE, READ, DEXTER, and ROSS, be a committee to take into consideration that part of the Speech of the President of the United States which recommends a revision and amendment of the judiciary system, and that they have leave to report by bill, bills, or otherwise.

FRIDAY, December 13.

Mr. ROSS from the committee to whom was referred the bill for reviving and continuing suits and proceedings in the Circuit Court for the district of Pennsylvania, reported amendments; which were read and agreed to, and the bill was amended accordingly.

Ordered, That this bill pass to the third reading.

The Senate resumed the consideration of the motion made yesterday respecting the law prohibiting the slave trade; and.

Ordered, That Messrs. HILLHOUSE, DEXTER, and READ, be a committee to take the same into consideration and report thereon to the Senate.

MONDAY, December 16.

The bill for reviving and continuing suits and proceedings in the Circuit Court for the district of Pennsylvania was read the third time, and passed.

Mr. MARSHALL, from the committee to whom was referred the petition of Margaret Lapsley, made report; which was read.

Ordered, That it lie for consideration.

TUESDAY, December 17.

Ordered, That Mr. WELLS be of the Joint Committee for Enrolled bills on the part of the Senate.

The Senate took into consideration the report of the committee on the petition of Margaret Lapsley, and agreed thereto.

Mr. TRACY, from the committee to whom was referred the letter signed John Trumbull, of 20th September, 1798, reported a resolution, which was adopted, as follows:

Resolved, That the Senate of the United States accept the prints presented by John Trumbull, Esq., and that their President be requested to inform him, that while they respect the delicacy which dictated the *manner* of offering this elegant present, they consider their country honored by the genius of one of her sons, by whom these prints are happily designed, to perpetuate two memorable scenes in her progress to independence, and to preserve in lively recollection the names and virtues of heroes who fell in her defence.

Ordered, That Messrs. DAYTON, MARSHALL, and TRACY, be a committee to prepare and report a bill providing for the renewal of the certificates of the debt of the United States which have been destroyed or lost.

WEDNESDAY, December 18.

The Senate transacted no business to-day.

THURSDAY, December 19.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

The letter herewith transmitted will inform you that it has pleased Divine Providence to remove from this life our excellent fellow-citizen GEORGE WASHINGTON, by the purity of his character, and a long series of services to his country, rendered illustrious through the world. It remains for an affectionate and grateful people, in whose hearts he can never die, to pay suitable honors to his memory.

JOHN ADAMS.

UNITED STATES, December 19, 1799.

The Message and letter were read and ordered to lie for consideration.

A message from the House of Representatives informed the Senate that the House having received intelligence of the death of their highly-valued fellow-citizen, General GEORGE WASHINGTON, and sharing the universal grief this distressing event must produce, have resolved that a joint committee be appointed, to report measures suitable to the occasion, and expressive of the profound sorrow with which Congress is penetrated on the loss of a citizen, first in war, first in peace, and first in the hearts of his countrymen; and, having appointed a committee on their part, desire the concurrence of the Senate.

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The Senate proceeded to consider the foregoing resolution of the House of Representatives; whereupon,

Resolved, That they do concur therein, and that MESSRS. DAYTON, BINGHAM, DEXTER, GUNN, LAURANCE, TRACY, and READ, be the committee on the part of the Senate.

Resolved, That the Senate will wait on the President of the United States, to condole with him on the distressing event of the death of General GEORGE WASHINGTON; and that a committee be appointed to prepare, for that occasion, an Address to the President of the United States, expressive of the deep regret of the Senate; and that this committee consist of Messrs. DEXTER, ROSS, and READ.

Resolved, That the chairs in the Senate Chamber be covered, and the room hung with black, and that each member, and the officers of the Senate, go into mourning, by the usual mode of wearing a crape round the left arm, during the session.

MONDAY, December 23.

TIMOTHY BLOODWORTH, from the State of North Carolina, and JOHN E. HOWARD, from the State of Maryland, severally attended.

Mr. DEXTER, from the committee appointed for the purpose on the 18th inst., reported the draught of an Address to the President of the United States, on the death of General GEORGE WASHINGTON; which being read in paragraphs, was adopted, as follows:

To the President of the United States:

The Senate of the United States respectfully take leave, sir, to express to you their deep regret for the loss their country sustains in the death of General GEORGE WASHINGTON.

This event, so distressing to all our fellow-citizens, must be peculiarly heavy to you, who have long been associated with him in deeds of patriotism. Permit us, sir, to mingle our tears with yours; on this occasion it is manly to weep. To lose such a man, at such a crisis, is no common calamity to the world. Our country mourns her Father. The Almighty Disposer of human events has taken from us our greatest benefactor and ornament. It becomes us to submit with reverence to him who "maketh darkness his pavilion."

With patriotic pride, we review the life of our WASHINGTON, and compare him with those of other countries, who have been pre-eminent in fame. Ancient and modern names are diminished before him. Greatness and guilt have too often been allied; but his fame is whiter than it is brilliant. The destroyers of nations stood abashed at the majesty of his virtue. It reprieved the intemperance of their ambition, and darkened the splendor of victory. The scene is closed, and we are no longer anxious lest misfortune should sully his glory; he has travelled on to the end of his journey and carried with him an increasing weight of honor: he has deposited it safely, where misfortune cannot tarnish it, where malice cannot blast it. Favored of heaven, he departed without exhibiting the weakness of humanity. Magnanimous in death, the darkness of the grave could not obscure his brightness.

Such was the man whom we deplore. Thanks to

God! his glory is consummated; WASHINGTON yet lives—on earth in his spotless example—his spirit is in heaven.

Let his countrymen consecrate the memory of the heroic General, the patriotic Statesman, and the virtuous Sage; let them teach their children never to forget that the fruit of his labors and his example are their inheritance.

SAMUEL LIVERMORE,

President of the Senate, pro tempore.

Ordered, That the committee who prepared the Address wait on the President of the United States, and desire him to acquaint the Senate at what time and place it will be most convenient for him that it should be presented.

Mr. DEXTER reported, from the committee, that they had waited on the President of the United States and that he had acquainted them that he would receive the Address of the Senate immediately, at his own house.

Whereupon, the Senate waited on the President of the United States, and the President of the Senate, in their name, presented the Address this day agreed to.

To which the PRESIDENT OF THE UNITED STATES made the following reply:

Gentlemen of the Senate:

I receive with the most respectful and affectionate sentiments, in this impressive address, the obliging expressions of your regard for the loss our country has sustained in the death of her most esteemed, beloved, and admired citizen.

In the multitude of my thoughts and recollections on this melancholy event, you will permit me only to say, that I have seen him in the days of adversity, in some of the scenes of his deepest distress and most trying perplexities; I have also attended him in his highest elevation, and most prosperous felicity, with uniform admiration of his wisdom, moderation, and constancy.

Among all our original associates in that memorable League of the Continent in 1774, which first expressed the sovereign will of a free nation in America, he was the only one remaining in the General Government. Although, with a constitution more enfeebled than his, at an age when he thought it necessary to prepare for retirement, I feel myself alone, bereaved of my last brother, yet I derive a strong consolation from the unanimous disposition which appears, in all ages and classes, to mingle their sorrow with mine, on this common calamity to the world.

The life of our WASHINGTON cannot suffer by a comparison with those of other countries who have been most celebrated and exalted by fame. The attributes and decorations of royalty could have only served to eclipse the majesty of those virtues which made him, from being a modest citizen, a more resplendent luminary. Misfortune, had he lived, could hereafter have sullied his glory only with those superficial minds, who, believing that characters and actions are marked by success alone, rarely deserve to enjoy it. Malice could never blast his honor, and envy made him a singular exception to her universal rule. For himself he had lived enough to life, and to glory. For his fellow-citizens, if their prayers could have been answered, he would have been immortal. For me his departure is at a most unfortunate moment. Trusting, however, in the wise and righteous dominion of Providence over the passions of men, and the results of their councils and

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actions, as well as over their lives, nothing remains for me but humble resignation.

His example is now complete, and it will teach wisdom and virtue to magistrates, citizens, and men, not only in the present age, but in future generations, as long as our history shall be read. If a Trajan found a Pliny, a Marcus Aurelius can never want biographers, eulogists, or historians.

JOHN ADAMS.

UNITED STATES, December 23, 1799.

The Senate returned to their own Chamber.

A message from the House of Representatives informed the Senate that the joint committee appointed on the part of the House of Representatives, on the 19th instant, on the receipt of the intelligence of the death of General GEORGE WASHINGTON, having made report to that House, they have agreed to sundry resolutions thereupon, in which they desire the concurrence of the Senate.

Mr. DAYTON, from the joint committee appointed the 19th instant, on the part of the Senate, on the receipt of the intelligence of the death of General GEORGE WASHINGTON, reported in part, and the report was agreed to. Whereupon,

The Senate took into consideration the resolutions of the House of Representatives, of this day, on the report of the joint committee on the subject above mentioned, and which resolutions are as follows:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled. That a marble monument be erected by the United States in the Capitol, at the City of Washington; and that the family of General WASHINGTON be requested to permit his body to be deposited under it; and that the monument be so designed as to commemorate the great events of his military and political life.

And be it further resolved, That there be a funeral procession from Congress Hall to the German Lutheran Church, in honor of the memory of General GEORGE WASHINGTON, on Thursday, the 26th instant; and that an oration be prepared at the request of Congress, to be delivered before both Houses on that day; and that the President of the Senate, and Speaker of the House of Representatives, be desired to request one of the members of Congress to prepare and deliver the same.

And be it further resolved, That it be recommended to the people of the United States to wear crape on the left arm, as mourning, for thirty days.

And be it further resolved, That the President of the United States be requested to direct a copy of these resolutions to be transmitted to Mrs. WASHINGTON, assuring her of the profound respect Congress will ever bear to her person and character; of their condolence on the late afflicting dispensation of Providence, and entreating her assent to the interment of the remains of General GEORGE WASHINGTON, in the manner expressed in the first resolution.

Resolved, That the President of the United States be requested to issue a proclamation, notifying to the people throughout the United States the recommendation contained in the third resolution.

Resolved, unanimously. That the Senate do concur in the aforesaid resolutions.

A message from the House of Representatives informed the Senate that the House have passed

a bill, entitled "An act supplementary to the act, entitled 'An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States,'" and a bill, entitled "An act extending the privilege of franking to William Henry Harrison, the Delegate from the Territory of the United States Northwest of the Ohio, and making provision for his compensation;" in which bills they desire the concurrence of the Senate.

The bill, sent from the House of Representatives, entitled "An act supplementary to the act, entitled 'An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States,'" was read the first time; and, by unanimous consent, it was read the second time, and referred to Messrs. ROSS, PAINE, and LAURANCE, to consider and report thereon to the Senate.

The bill last mentioned in the message from the House of Representatives was read, and ordered to the second reading.

TUESDAY, December 24.

Mr. ROSS, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act supplementary to the act, entitled 'An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States,'" reported the bill without amendment; and the report was adopted; and, by unanimous consent, the bill was read a third time, and passed.

Mr. TRACY presented a petition of Thomas Burling and others, inhabitants of certain lands on the borders of the Mississippi, praying confirmation of their grants made by the Spanish Government; and also that a disposition be made of the vacant lands in that territory. Also, a letter signed John Henderson, per order, directed to Winthrop Sargent, Governor, together with the extract of a letter from Governor Sargent to the Secretary of State on the subject.

Ordered, That the petition and papers above mentioned be referred to Messrs. TRACY, GUNN, and ROSS, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act extending the privileges of franking to William Henry Harrison, the Delegate from the Territory of the United States Northwest of the Ohio, and making provision for his compensation," was read a second time, and referred to Messrs. ROSS, TRACY, and WATSON, to consider and report thereon to the Senate.

Mr. LAURANCE presented the petition of Peter Aupoix, of the city of New York, praying allowance of drawback on certain goods stated to have been exported, though the forms of law were not, through want of information, complied with; and the petition was read, and referred to Messrs. LAURANCE, GOODHUE, and HILLHOUSE, to consider and report thereon to the Senate.

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THURSDAY, December 26.

In conformity to the resolve of the 23d instant, the Senate went in procession to the German Lutheran church, where was delivered an oration in honor of the memory of General GEORGE WASHINGTON. After which, they returned to their own Chamber, and adjourned.

FRIDAY, December 27.

Resolved, That the thanks of the Senate be communicated, through their President, to General HENRY LEE, for the eloquent and impressive oration to the memory of General GEORGE WASHINGTON, which he prepared and delivered at the request of Congress.

Resolved, That the Secretary be directed to apply to General LEE for a copy of the same.

Mr. ROSS, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act extending the privilege of franking to William Henry Harrison, the Delegate from the Territory of the United States Northwest of the Ohio, and making provision for his compensation," reported the bill without amendment, and the report was adopted; and, by unanimous consent, the bill was read the third time and passed.

MONDAY, December 30.

THOMAS JEFFERSON, Vice President of the United States and President of the Senate, attended.

JESSE FRANKLIN, appointed a Senator by the Legislature of the State of North Carolina, produced his credentials, was qualified, and took his seat in the Senate.

The VICE PRESIDENT laid before the Senate a letter signed John Cleves Symmes, stating the reasons why Congress should be induced to receive of him the purchase money for certain public lands at the contract price; and the letter was read.

Mr. LIVERMORE laid before the Senate a letter signed Henry Lee, in answer to their vote of thanks of the 27th instant, and request of a copy of his oration; which was read.

Mr. DAYTON, from the joint committee appointed the 19th instant, on the intelligence of the death of General GEORGE WASHINGTON, made a further report, in part, and it was agreed that the consideration thereof be postponed.

TUESDAY, December 31.

The VICE PRESIDENT laid before the Senate a letter from Samuel Meredith, Treasurer, of the 30th instant, with his specie account to 30th September, 1799; which were read and ordered to lie on the table.

Mr. PAINE presented the petition of Elijah Brainerd praying to be put on the pension list, or for such other allowance as Congress shall approve, in consideration of a wound received in the public service in the year 1776; and the petition was read and referred to Messrs. PAINE, TRACY, and COCKE, to consider and report thereon.

A message from the House of Representatives informed the Senate that the House have passed "Resolutions directing further measures in honor of the memory of General GEORGE WASHINGTON," in which they desire the concurrence of the Senate.

The resolutions were read, as follows:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That it be recommended to the people of the United States to assemble on the 22d day of February next, in such numbers and manner as may be convenient, publicly to testify their grief for the death of General GEORGE WASHINGTON, by suitable eulogies, orations, and discourses, or by public prayers.

And be it further resolved, That the President be requested to issue a proclamation for the purpose of carrying the foregoing resolution into effect.

Whereupon, *Resolved*, That the Senate do concur in the said resolutions.

WEDNESDAY, January 1, 1800.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act providing for salvage in cases of recapture," in which they desire the concurrence of the Senate. They have passed the bill, sent from the Senate, entitled "An act for the relief of persons imprisoned for debt," with amendments, in which they desire the concurrence of the Senate.

The Senate proceeded to consider the amendments of the House of Representatives to the bill last mentioned.

Ordered, That they be referred to Messrs. DEXTER, TRACY, and COCKE, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act providing for salvage in cases of recapture," was read the first time, and ordered to the second reading.

THURSDAY, January 2.

Mr. DEXTER, from the committee to whom were referred the amendments, sent from the House of Representatives, to the bill entitled "An act for the relief of persons imprisoned for debt," made report.

Resolved, That the Senate do agree to the amendments.

The bill, sent from the House of Representatives, entitled "An act providing for salvage in cases of recapture," was read the second time, and referred to, Messrs. GOODHUE, LAURANCE, and LANGDON, to consider and report thereon to the Senate.

FRIDAY, January 3.

WILSON CARY NICHOLAS, appointed a Senator by the Legislature of the State of Virginia, to supply the vacancy occasioned by the death of Henry Tazewell, Esq., produced his credentials, was qualified, and took his seat in the Senate.

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MONDAY, January 6.

The Senate proceeded to the consideration of Executive business, in which they spent the day.

TUESDAY, January 7.

STEPHENS THOMPSON MASON, from the State of Virginia, attended.

The VICE PRESIDENT communicated a report of the Secretary of the Department of War, exhibiting the expenses of the national armory at Springfield, Massachusetts; which was read.

MR. GOODHUE, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act providing for salvage in cases of recapture," reported amendments; which were read, and in part agreed to.

Ordered, That this bill be recommitted to the same committee, for further amendment.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the preservation of peace with the Indian tribes," in which they desire the concurrence of the Senate.

The bill last mentioned was read and ordered to the second reading.

MR. ROSS presented the petition of Richard Butler, an officer in the military service of the United States, doing duty within the Mississippi Territory, praying to be allowed to introduce a number of slaves within the said Territory, which he has lately become possessed of in right of his wife, the ordinance to the contrary notwithstanding; and the petition was read.

Ordered, That the petition be referred to Messrs. ROSS, TRACY, and BROWN, to consider and report thereon to the Senate.

WEDNESDAY, January 8.

The bill, sent from the House of Representatives, entitled "An act for the preservation of peace with the Indian tribes," was read the second time, and referred to Messrs. HILLHOUSE, BROWN, and ROSS, to consider and report thereon to the Senate.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

A report made to me on the first day of this month, by the Director of the Mint, through the office of the Secretary of State, with the documents attending it, I transmit to both Houses of Congress for their consideration.

JOHN ADAMS.

UNITED STATES, January 8, 1800.

The Message and papers were read and ordered to lie for consideration.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of John Vaughan," in which they desire the concurrence of the Senate.

The bill was read, and ordered to a second reading.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

In compliance with the request in one of the resolutions of Congress, of the 21st of December last, I transmitted a copy of those resolutions, by my Secretary, Mr. Shaw, to Mrs. WASHINGTON, assuring her of the profound respect Congress will ever bear to her person and character; of their condolence in the late afflicting dispensation of Providence; and entreating her assent to the interment of the remains of General GEORGE WASHINGTON in the manner expressed in the first resolution. As the sentiments of that virtuous lady, not less beloved by this nation than she is at present greatly afflicted, can never be so well expressed as in her own words, I transmit to Congress her original letter.

It would be an attempt of too much delicacy to make any comments upon it; but there can be no doubt that the nation at large, as well as all the branches of the Government, will be highly gratified by any arrangement which may diminish the sacrifice she makes of her individual feelings.

JOHN ADAMS.

UNITED STATES, January 8, 1800.

The letter is as follows:

SIR: While I feel with keenest anguish the late dispensation of Divine Providence, I cannot be insensible to the mournful tributes of respect and veneration which are paid to the memory of my dear deceased husband; and, as his best services, and most anxious wishes, were always devoted to the welfare and happiness of his country, to know that they were truly appreciated and gratefully remembered affords no inconsiderable consolation.

Taught by the great example which I have so long had before me, never to oppose my private wishes to the public will, I must consent to the request made by Congress which you have had the goodness to transmit to me; and, in doing this, I need not, I cannot, say what a sacrifice of individual feeling I make to a sense of public duty.

With grateful acknowledgments, and unfeigned thanks, for the personal respect and evidences of condolence, expressed by Congress and yourself, I remain, very respectfully, sir, your most obedient humble servant.

MARTHA WASHINGTON.

THE PRESIDENT OF THE UNITED STATES.

Ordered, That the Message and letter be referred to the joint committee appointed on the 19th December last, to report suitable measures in honor of the memory of General GEORGE WASHINGTON, deceased.

THURSDAY, January 9.

MR. GOODHUE, from the committee to whom was recommitted the bill, sent from the House of Representatives, entitled "An act providing for salvage in cases of recapture," reported further amendments.

Ordered, That they be printed for the use of the Senate.

The bill, sent from the House of Representatives, entitled "An act for the relief of John Vaughan," was read the second time, and referred to Messrs. LIVERMORE, DEXTER, and PAINE, to consider and report thereon to the Senate.

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Mr. DEXTER presented the petition of Keziah Underwood, of the State of Massachusetts, praying the payment of a prize ticket of the United States lottery, although barred by the statute of limitation; and the petition was read.

Ordered, That it be referred to Messrs. DEXTER, GUNN, and PAINE, to consider and report thereon to the Senate.

FRIDAY, January 10.

Mr. TRACY presented the memorial of the Connecticut Academy of Arts and Sciences, signed Timothy Dwight, President, praying that provision may be made for a more minute return of the inhabitants of the United States in a future census; and the memorial was read.

Ordered, That it be referred to the committee appointed the first instant, on the bill, sent from the House of Representatives, entitled "An act providing for the enumeration of the inhabitants of the United States," to consider and report thereon to the Senate.

Mr. ROSS presented the memorial of the American Philosophical Society, signed Thomas Jefferson, President, suggesting the propriety of a similar provision; and the memorial was read, and referred to the committee last mentioned, to consider and report thereon, to the Senate.

The Senate resumed the consideration of the amendments reported by the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act providing for salvage in cases of recapture," and, after debate,

Ordered, That the bill be recommitted to the committee who reported the amendments, further to consider and report thereon, and that Messrs. DEXTER and LIVERMORE be added to the committee.

Mr. DAYTON, from the committee appointed the 17th December, to prepare and report a bill providing for the renewal of certificates of the debt of the United States, which have been destroyed or lost, made report; whereupon,

Ordered, That the committee be discharged from the further consideration of the subject.

Ordered, That Messrs. TRACY, MARSHALL, and DAYTON, be a committee to bring in a bill for the relief of the representatives of Samuel Lapsley.

MONDAY, January 13.

The Senate proceeded to the consideration of Executive business.

TUESDAY, January 14.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

A report, made to me on the 5th of this month, by the Secretary of War, contains various matters in which the honor and safety of the nation are deeply interested. I transmit it therefore to Congress, and recommend it to their serious consideration.

JOHN ADAMS.

UNITED STATES January 13, 1800.

The Message and report were read, and ordered to lie on the table.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to repeal part of an act, entitled 'An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned,'" in which they desire the concurrence of the Senate.

The bill was read, and ordered to the second reading.

Mr. HILLHOUSE, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act for the preservation of peace with the Indian tribes," reported the bill without amendment; and the report was adopted.

Ordered, That this bill pass to the third reading.

Mr. TRACY, from the committee appointed for the purpose, reported a bill for the relief of the legal representatives of Samuel Lapsley, deceased; which was read, and ordered to the second reading.

WEDNESDAY, January 15,

The bill, sent from the House of Representatives, entitled "An act to repeal part of an act, entitled 'An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned,'" was read the second time, and referred to Messrs. ROSS, GOODHUE, and LATIMER, to consider and report thereon to the Senate.

The bill for the relief of the legal representatives of Samuel Lapsley, deceased, was read the second time, and recommitted to the committee who reported the bill, further to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act for the preservation of peace with the Indian tribes," was read the third time, and passed.

Mr. ROSS, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to repeal part of an act, entitled 'An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned,'" made report; and, after debate,

Ordered, That the bill be recommitted to the committee last named, further to consider and report thereon to the Senate.

THURSDAY, January 16.

Ordered, That the Secretary supply each Senator with the fourth volume of the laws of the United States, bound and lettered.

Mr. ROSS, from the committee to whom was re-committed the bill, sent from the House of Representatives, entitled "An act to repeal part of an act, entitled 'An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned,'" reported amendments, which were adopted.

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Ordered, That this bill pass to the third reading as amended.

Mr. GOODHUE, from the committee to whom was recommitted the bill, sent from the House of Representatives, entitled "An act providing for salvage in cases of recapture," reported amendments, which were read.

Ordered, That they be printed for the use of the Senate.

FRIDAY, January 17.

Mr. TRACY, from the committee to whom was referred the bill for the relief of the legal representatives of Samuel Lapsley, deceased, reported amendments.

Ordered, That they be printed for the use of the Senate.

The bill, sent from the House of Representatives, entitled "An act to repeal part of an act, entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned," was read the third time.

Resolved, That this bill pass with amendments.

MONDAY, January 20.

The Senate took into consideration the amendments reported by the committee to the bill, entitled "An act providing for salvage in cases of capture," and

Ordered, That the bill and amendments be recommitted to the same committee, further to consider and report thereon.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

In obedience to law I transmit to Congress my annual account of the contingent fund.

JOHN ADAMS.

UNITED STATES, January 20, 1800.

The Message and account were read, and ordered to lie on the table.

The Senate took into consideration the amendments reported by the committee to the bill for the relief of the legal representatives of Samuel Lapsley, deceased; which were adopted.

Ordered, That this bill pass to the third reading as amended.

THE VICE PRESIDENT communicated a letter from Governor St. Clair, of the Territory Northwest of the Ohio, with a resolution of the Legislature of the said Territory, instructing William H. Harrison, their Delegate in Congress, to apply for an act of Congress to authorize the President of the United States to grant to the said Legislature, in trust, certain lots reserved for public use in the grant to John C. Symmes, and also the lots reserved in the seven ranges of townships within the said Territory; and the letter, together with the resolution, were read.

Ordered, That they lie on the table.

TUESDAY, January 21.

Mr. ROSS, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act providing for the enumeration of the inhabitants of the United States," reported amendments, which were read.

Ordered, That they be printed for the use of the Senate.

The bill for the relief of the legal representatives of Samuel Lapsley, deceased, was read the third time, and passed.

WEDNESDAY, January 22.

Ordered, That Messrs. GOODHUE, TRACY, and LAURANCE, be a committee to consider whether any, or what, compensation should be made to the members of the Senate and House of Representatives, in addition to what is at present allowed by law, and report by bill or otherwise.

THURSDAY, January 23.

CHARLES PINCKNEY, appointed a Senator by the State of South Carolina, produced his credentials, was qualified, and took his seat in the Senate.

Ordered, That the Secretary deliver the letter from Governor St. Clair, addressed to the Vice President, together with the resolution of the Legislature of the Territory Northwest of the river Ohio, communicated on the 20th instant, to Mr. Harrison, the representative of the Territory in Congress.

Mr. ANDERSON, from the committee appointed to consider the petition of Samuel Glass, and others, also, the petition of Daniel Smith, reported thereon; and the reports were severally read.

Ordered, That they be printed for the use of the Senate.

The Senate took into consideration the amendments reported by the committee to the bill, entitled "An act providing for the enumeration of the inhabitants of the United States," and, after debate.

Ordered, That the further consideration thereof be postponed.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

I transmit to Congress, for the information of the members, a report of the Secretary of State, of the 9th instant, a letter from Matthew Clarkson, Esq. to him, of the 2d, and a list of the claims adjusted by the commissioners under the 21st article of our treaty with Spain.

JOHN ADAMS.

UNITED STATES, January 23, 1800.

The Message and papers were read, and ordered to lie for consideration.

Mr. PINCKNEY notified the Senate that he would, in the course of the next week, or at some short day hereafter, move for leave to bring in a bill to establish an uniform mode of drawing juries by lot in all the Judicial Courts of the United States having juries.

On motion, of Mr. ROSS, that it be

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Resolved, That a committee be appointed to consider whether any, and what, provisions ought to be made by law for deciding disputed elections of President and Vice President of the United States, and for determining the legality or illegality of the votes given for those officers in the different States:

A motion was made to amend the motion by adding, "and that the committee be authorized to report by bill or otherwise."

Mr. BROWN, of Kentucky, was of opinion that this was a subject on which Congress had no right to legislate. When the Constitution undertook to make provisions on a subject, if they were found incomplete, or defective, they must be remedied by recommending an amendment to the Constitution. He wished the gentleman who had made this motion would pay further attention to the subject, and believed he would find that if anything was to be done it must be done by proposing an amendment to the Constitution.

Mr. ROSS said, that the Constitution had certainly made no provision on this subject. It only directed that after the votes were received, &c., the President of the Senate should, in the presence of the Senate and of the House of Representatives, open the certificates, and the votes should be counted. Suppose, said he, persons should claim to be Electors, who had never been *properly* appointed, should their vote be received? Suppose they should vote for a person to be President who had not the age required by the Constitution, or who had not been long enough a citizen of the United States, or for two persons who were both citizens of the same State—such cases might happen and were very likely to happen, and is there no remedy? What a situation would the country be in if such a case was to happen! He thought it their duty to make provision for it, and he believed a law was sufficient.

Mr. C. PINCKNEY, of South Carolina, thought it a very dangerous practice to endeavour to amend the Constitution by making laws for the purpose. The Constitution was a sacred deposit, put into their hands; they ought to take great care not to violate or destroy the essential provisions made by that instrument. He remembered very well that in the Federal Convention great care was used to provide for the election of the President of the United States, independently of Congress; to take the business as far as possible out of their hands. The votes are to be given by Electors appointed for that express purpose, the Electors are to be *appointed* by each State, and the whole direction as to the manner of their appointment is given to the State Legislatures. Nothing was more clear to him than that Congress had no right to meddle with it at all; as the whole was entrusted to the State Legislatures, they must make provision for all questions arising on the occasion.

Mr. DEXTER, of Massachusetts, did not feel himself at all in doubt as to the right of the Legislature to make such provisions on this subject as appeared to be necessary. It was directed by the Constitution that a President should be appointed, that he should be of not less than thirty-five years of age, that he should have been at least fourteen years

a citizen of the United States, &c. The proceedings in the election of a President may be defective in all these particulars, and can it be supposed that there is no way to correct them? The Constitution is not silent on this head; among the powers given to Congress in the 5th section is this, "to pass all laws necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof." The law now proposed appears to be necessary to carry into effect the power of appointing the President; it is therefore clearly Constitutional.

Mr. LIVERMORE, of New Hampshire, never felt less doubt on any subject than the one now under consideration: the Constitution has given many directions as to the appointment of the President, some of which he read. Is it possible (said Mr. L.) that gentlemen can suppose all these may be violated and disregarded, and yet that it is nobody's business to interpose, and make provision to prevent it? He trusted the honorable Senate would agree to the resolution to appoint a committee for that purpose.

Mr. BALDWIN, of Georgia, expressed his regret that the mover of this resolution had not thought proper to bring forward a subject so new and important, in the form commonly used in parliamentary assemblies, by a single proposition, viz: "that it is expedient that further provision be made respecting disputed votes for President and Vice President of the United States." It was manifest from the debate that several different questions had been under consideration at the same time, and different gentlemen were in fact directing their remarks to different questions.

The first question was, the one he had just mentioned, whether there was so great a defect in the present provisions, which exist on this subject, as to render further provisions necessary?

The second is, if further provisions are necessary, must they be made by amendment to the Constitution? or,

Thirdly, whether they can be made by law?

He must say, for himself, that he did not agree that the present provisions on this subject were so defective and absurd as had been represented. His general respect for those who had gone before him in this House, and especially for the venerable assembly of the most experienced statesmen of the country by whom the Constitution had been formed, forbade him to entertain the belief that this subject, which is the strong feature that characterizes this as an Elective Government, could have been till now so entirely out of sight and neglected. Gentlemen appeared to him, from their observations, to forget that the Constitution in directing *Electors* to be appointed throughout the United States equal to the whole number of the Senators and Representatives in Congress, for the express purpose of entrusting this Constitutional branch of power to them, had provided for the existence of as respectable a body as Congress, and in whom the Constitution on this business has more confidence than in Congress. Experience had proved

that a more venerable selection of characters could not be made in this country than usually composed that electoral body. And what are the questions which can arise on the subject entrusted to them to which they are incompetent, or to which Congress is so much more competent? The questions which present themselves seem to be:

1. Those which relate to the elections, returns, and qualifications, of their own members. Shall these be taken away from that body, and submitted to the superior decision and control of Congress, without a particle of authority for it from the Constitution?

2. The legality or constitutionality of the different steps of their own proceedings, as, whether they vote for two persons both of the same State; whether they receive votes for a person under thirty-five years of age, or one who has not been fourteen years a citizen of the United States &c. It is true they, as well as any other Constitutional branch of this Government acting under that instrument, may be guilty of taking unconstitutional or corrupt steps, but they do it at their peril. Suppose either of the other branches of the Government, the Executive, or the Judiciary, or even Congress, should be guilty of taking steps which are unconstitutional, to whom is it submitted, or who has control over it, except by impeachment? The Constitution seems to have equal confidence in all the branches on their own proper ground, and for either to arrogate superiority, or a claim to greater confidence, shows them in particular to be unworthy of it, as it is in itself directly unconstitutional.

3. The authentication of their own acts. This would seem to be as complete in them, as in either of the other branches of the Government. Their own authentication of their act finishes the business entrusted to them. It is true this must be judged of by the persons who are concerned in carrying it into execution; as in all laws and official acts under this Government, they to whom they are directed, and who are to be bound by them, must judge, and judge at their peril, whether they are duly authenticated or whether they are only a forgery.

If this be the just view of the subject, (and he could see no other which did not involve inextricable difficulties,) it leaves no possible question for the Senators and Representatives, when met together to count the votes agreeably to the Constitution, but to judge of the authentication of the act of the Electors, and then to proceed and count the votes as directed. If this body of the Electors of all the States had been directed by the Constitution to assemble in one place, instead of being formed into different Electoral colleges, he took it for granted none of the questions on which this resolution has been brought forward, would have occurred; every one would have acknowledged that they were to be settled in that assembly. It having been deemed more safe by the Constitution to form them into different Electoral colleges, to be assembled in the several States, does not at all alter the nature or distinctness of their powers, or subject

them any more to the control of the other departments of the Government.

He observed further, on the other points to which gentlemen had spoken, that if such radical and important changes were to be made on this subject, as seemed to be in contemplation under this resolution, he thought they must be made by proposing an amendment to the Constitution to that effect; and that they could not be made by law, without violating the Constitution. He did not agree with the gentleman from Massachusetts, (Mr. DEXTER,) that the clause at the close of the 8th section of the Constitution, which gives to Congress power to pass all laws necessary and proper to carry into effect the foregoing powers of that section, and all other powers vested by the Constitution in the Government of the United States, or in any department or officer thereof, could be extended to this case; that speaks of the use of the powers vested by the Constitution—this resolution relates to the formation of a competent and essential part of the Government itself: that speaks of the movements of the Government after it is organized; this relates to the organization of the Executive branch, and is therefore clearly a Constitutional work, and to be done, if at all, in the manner pointed out by the Constitution, by proposing an article of amendment to the Constitution on that subject. His own opinion, however, was, what he had before stated, that the provisions on this subject were already sufficient; that all the questions which had been suggested were as safely left to the decision of the assemblies of Electors, as of any body of men that could be devised; and that the members of the Senate and of the House of Representatives, when met together in one room, should receive the act of the Electors as they would the act of any other Constitutional branch of the Government, to judge only of its authentication, and then to proceed to count the votes, as directed in the second article of the Constitution.

The further consideration of the subject was postponed.

FRIDAY, January 24.

Mr. GOODHUE, from the committee to whom was recommended the bill, sent from the House of Representatives, entitled "An act providing for salvage in cases of recapture," reported further amendments.

Ordered, That they be printed for the use of the Senate.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to suspend in part an act, entitled 'An act to augment the Army of the United States, and for other purposes,'" also, a "Resolution authorizing and directing the Secretary of State to procure and transmit to the Governor of North Carolina a number of copies of the laws of the United States;" in which bill and resolution they desire the concurrence of the Senate.

The bill last mentioned was read, and ordered to the second reading.

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The resolution last mentioned was read, and ordered to be printed for the use of the Senate.

The Senate resumed the consideration of the motion made yesterday, that a committee be appointed to consider whether any, and what, provisions ought to be made by law for deciding disputed elections of President and Vice President of the United States, and for determining the legality or illegality of the votes given for those officers in the different States, and that the committee be authorized to report by bill or otherwise; and the motion as amended was adopted; and,

Ordered, That Messrs. ROSS, LAURANCE, DEXTER, PINCKNEY, and LIVERMORE, be the committee.

MONDAY, January 27.

The bill, sent from the House of Representatives, entitled "An act to suspend in part an act, entitled 'An act to augment the Army of the United States, and for other purposes,'" was read the second time.

Ordered, That it be referred to Messrs. TRACY, GUNN, and SCHUREMAN, to consider and report thereon to the Senate.

The Senate resumed the consideration of the amendments reported by the committee to the bill, entitled "An act providing for salvage in cases of recapture; and, after debate,

Ordered, That the further consideration thereof be postponed.

The Senate took into consideration the resolution sent from the House of Representatives, authorizing and directing the Secretary of State to procure and transmit to the Governor of North Carolina copies of the laws of the United States; and

Resolved, That they do concur in the resolution.

TUESDAY, January 28.

The Senate resumed the consideration of the amendments reported by the committee to whom was referred the bill, entitled "An act providing for the enumeration of the inhabitants of the United States;" and, the first amendment reported being amended, on motion to agree to the amendment, as follows:

SEC. 1. Strike out lines 8, 9, 10, 11, 12, and to the word "for" in the 13th line, and insert "to take, or cause to be taken the number and names of the free inhabitants, (including those bound to service for a term of years,) and the number of slaves within their respective districts and territories; omitting, in such enumeration, Indians not taxed, and designating the age, sex, and colour, of all free persons; also the profession, trade, or occupation, in which every free male, above the age of twenty-one, is chiefly or principally employed, and the professions, trades, and occupations to which free males, under twenty-one, are bound as apprentices; and, also, distinguishing those who were inhabitants of the United States on the third day of September, one thousand seven hundred and eighty-three, or born under the jurisdiction thereof afterwards, from those who have emigrated since that time, according to the schedule herein contained."

6th Cox.—2

It was determined in the negative—yeas 12, nays 19, as follows:

YEAS—Messrs. Baldwin, Brown, Chipman, Dexter, Foster, Hillhouse, Laurance, Paine, Read, Ross, Schureman, and Tracy.

NAYS—Messrs. Anderson, Bingham, Bloodworth, Cocke, Franklin, Goodhue, Greene, Gunn, Howard, Langdon, Latimer, Livermore, Lloyd, Marshall, Mason, Nicholas, Pinckney, Watson, and Wells.

And it was agreed that the further consideration of the bill be postponed till to-morrow.

WEDNESDAY, January 29.

The Senate resumed the consideration of the amendments reported by the committee to whom was referred the bill, entitled "An act providing for the enumeration of the inhabitants of the United States;" and having agreed to some of the amendments reported by the committee, together with sundry additional amendments,

Ordered, That this bill be recommitted.

Mr. LIVERMORE, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act for the relief of John Vaughan," reported the bill without amendment.

THURSDAY, January 30.

The Senate resumed the consideration of the amendments reported by the committee to whom was referred the bill, entitled "An act providing for salvage in cases of recapture;" and, having agreed thereto,

Ordered, That this bill pass to the third reading as amended.

The Senate proceeded to consider the report of the committee on the bill, entitled "An act for the relief of John Vaughan;" and, after debate, adjourned.

FRIDAY, January 31.

The bill, sent from the House of Representatives, entitled "An act providing for salvage, in cases of recapture," was read the third time.

Resolved, That this bill pass with an amendment.

The Senate resumed the consideration of the report of the committee on the bill, entitled "An act for the relief of John Vaughan;" and, after debate,

On motion, to agree to the third reading of the bill, it passed in the affirmative—yeas 16, nays 15, as follows:

YEAS—Messrs. Baldwin, Bingham, Bloodworth, Foster, Franklin, Greene, Langdon, Latimer, Laurance, Lloyd, Nicholas, Pinckney, Read, Ross, Tracy, and Wells.

NAYS—Messrs. Anderson, Brown, Chipman, Cocke, Dexter, Goodhue, Gunn, Hillhouse, Howard, Livermore, Marshall, Mason, Paine, Schureman, and Watson.

So it was *Resolved*, That this bill pass to the third reading.

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DRAWING JURIES BY LOT.

Mr. PINCKNEY, agreeably to notice given on the 23d instant, asked leave to bring in a bill to establish a uniform mode of drawing juries by lot, in all the Courts of the United States; and, leave being granted, the bill was read.

On motion to agree to the second reading of the bill, it passed in the affirmative—yeas 30, as follows:

YEAS—Messrs. Anderson, Baldwin, Bingham, Bloodworth, Brown, Chipman, Cocke, Dexter, Foster, Franklin, Goodhue, Greene, Gunn, Hillhouse, Howard, Langdon, Laurance, Livermore, Lloyd, Marshall, Mason, Nicholas, Paine, Pinckney, Read, Ross, Schureman, Tracy, Watson, and Wells.

On introducing the above bill, Mr. PINCKNEY addressed the Chair as follows:

Mr. President: Agreeably to the notice I gave, I rise to introduce a measure which appears to me of the highest importance to this country; it is for the purpose of introducing a bill to establish a uniform mode of drawing juries by lot in the Courts of the United States. On this occasion it will be unnecessary for me to go into an examination of the nature and excellence of the trial by jury, further than to remark, that we must all consider a fair and impartial one as next in point of importance to an uncorrupt or unbiassed choice of the Legislature. On the integrity and impartial decisions of our juries, depend not only the lives and properties, but what is infinitely dearer to freemen, their privileges, and characters. Your Legislature and your juries are the foundation upon which your freedom must rest. The Constitution has declared our citizens shall always enjoy the benefit of both; but the particular modifications under which the right of trial by jury shall be extended to them, depend upon the Legislature. It is to endeavor to rectify what I conceive to be a fatal error on this subject, that I now address you—I do so in the most perfect confidence that I shall be heard with that attention the importance of the subject is entitled to; that, on one so interesting to every part of the community, gentlemen will leave themselves open to conviction; that the principles and best mode of establishing impartial justice will be sought for, and that, when discovered, they will be suffered to prevail.

I will begin by expressing my astonishment that in framing the law for establishing the Judicial Courts of the United States, its forms did not only establish one uniform mode, but that in doing so, they did not without hesitation give the preference to the drawing jurors by lot—a mode long in use in several of the States, where the excellent effects it has produced has proved it to be incontestably the best that has ever been devised, for producing complete and impartial justice. This being the great object of our judiciary, I hope the House will upon the present occasion throw all party views and opinions out of the question; that they will recollect it is not for the present moment, or to answer any temporary purposes, this regulation is intended; that it is one springing from the habits and opinions of our citizens, and the

nature of our Government; that it is intended to be ingrafted upon our judiciary, and remain as a bulwark, constructed to resist all the storms of power, of privilege, or of faction, that may hereafter assail it. It will be necessary, before we go into an examination of the bill I intend to produce, to state to you the defects of your jury system as it stands at present, and the danger and inconvenience it produces.

The introduction of juries was intended to serve as a barrier against tyranny, and to be the guardian of the private rights and privileges of the people. Well and impartially selected, they are certainly the most complete defence against oppression, and the most certain means of producing impartial justice, that ever the ingenuity of mankind could discover; this and the representative principle are unquestionably the greatest efforts of the human mind; and they are blessings unknown to the ancients, which I trust our country will carry further and more completely into operation, and make them more a public blessing to our own than they have yet been to any nation. It is true we borrowed our jurisprudence from England, but weak and lame indeed is the administration of justice in that country to what I hope it will be in this. While their judges are appointed by the Crown—some of them holding seats in Parliament, all of them constantly looking to the Monarch for further honors and emoluments, and removable by an address of both Houses, which a Minister can always command—while their juries are summoned at will by a sheriff, Heaven forbid we should not exceed them in the purity and impartiality of our judicials! As they first taught us the value and importance of an independent judiciary, we will in return transmit them our improvements and teach them by our example to perfect their own; we will, too, I hope, be the means of extending it to other nations—for no pride can certainly be a more honest one than that of wishing our country to take the lead, and be an example to the world in everything that may tend to their freedom and happiness.

One great defect in our present jury system is, that it introduces an inequality in the proceedings of our courts. In some districts the juries are drawn by lot in one mode, and in other districts drawn in a different one; in many they are not drawn by lot at all, but summoned at the will of the marshal; whereas in courts emanating from the same authority, held by the same judges, and administering the same laws, there should be an uniformity in all the proceedings. Another is, that the districts or portions of territory out of which the juries are to be drawn, are not precisely fixed; but, in many instances, perhaps in all, it is left to the clerk and marshal to draw or summon them as they please; whereas the boundaries of the counties or districts from which they are to be drawn, ought to be so fixed as to leave no discretion on this subject to the officers of the court, and while a sufficient number of jurors are secured to answer the end, to prevent them being drawn at such distances as would probably produce inconvenience or delay, or in many instances inevitable

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absence. But, sir, the greatest of all its defects, is the placing it at all in the power of the marshal to exercise his discretion in so important a manner as to select a jury as he pleases. The danger and consequences of this power vested in a ministerial officer, appointed by the President, holding his office during his pleasure, and looking up to him for other and more honorable and lucrative appointments, appear to me not only to be one of the greatest evils under which a part of the American people at present labor, but one which does not seem, before this, to have claimed from them or their Government the attention due to its importance. It is for this reason I have thought it my duty to bring it to your view at this time; and I do not hesitate to confess that I shall even consider it as one of the most fortunate moments of my life, that I have had an opportunity of first moving in a question on which the true freedom and happiness of our country so much depends. Should I succeed even partially—should I be the means of producing only an alteration of the present unjust and oppressive system, and lay a foundation for a complete and perfect one hereafter, it will amply compensate me for all the remarks and odium which the mover in so important a reform must naturally expect.

Viewing, as I do, impartial juries as among the most indispensable ingredients of a free Government, it is my duty to declare, and I solemnly do deliver it as my opinion, that in those States in which the federal marshals have a right to summon jurors as they please, the people *are not free*; that in those States the impartiality of your judicial tribunals, and the purity of the administration of justice, must depend not on the laws but the integrity and honest independence of a marshal; to him is left the monstrous and dangerous power of summoning proper or improper, fit or unfit, dishonest or upright men—men who may be the friends or enemies to the parties who are on their trial, or who on political questions may be known to be opposed to them, and to hold opinions diametrically contrary to those which are perhaps in the course of the trial to be submitted to them for their decision.

Who can deny that on the wise or oppressive, the unbiassed or corrupt use of this power must depend the decisions of our judiciary, in every case where party spirit runs high, and where it may be an object of great moment to influence the proceedings of a marshal? On a public and political question, any man can tell the danger and impropriety of such a power vested in an individual. But not only on questions of a public or political nature, but even in private cases, where the object in dispute is considerable, and where the parties have extensive concerns, no man ought to possess the power of summoning, as his friendships or hatreds, his caprice or perhaps something worse, may direct him, the jury who are to decide questions on which not only the fortune and happiness of individuals, but the character of some laws, and sometimes the faith of treaties, may depend.

I will for a moment consider this dangerous power in a marshal, as it respects the public, on all

questions in which the lives or characters of our citizens, may be concerned—on charges against them of a political nature, as well as in those entirely of a private nature, in which public questions are not at all involved.

With respect to those of a public nature, I must confess that when I first arrived here, and discovered the precarious and unsafe tenure on which the citizens of New York, Pennsylvania, Maryland, Virginia, and I believe New Jersey, held everything that freemen ought to consider as most dear—when I was informed that on every question respecting character, life, or fortune, the men who were to decide were to be picked or selected by a sheriff or a marshal, and not impartially drawn by lot, it was difficult for me to find words sufficiently expressive of my astonishment. I could scarcely believe that a people so enlightened, and so jealous of their liberties—a people who have had before their eyes, and in their very neighborhood, such excellent examples, in this respect, as the Eastern and Southern States, could have so long neglected a reform more precious to them than any other they could adopt. It has been since to me a source of much surprise that the State Legislatures, in the administration of justice within their own States, did not at once perceive and correct a system which, under a partial or oppressive use of it, places it so much in the power of an officer to stain the character of a nation and violate its most sacred obligations. This inattention is, however, I trust, now at an end, the subject is brought to their view, and the question is fairly before them; they are now to determine whether their exertions are in future to have all important questions respecting their dearest interests depend upon juries, impartially drawn by lot, under the regulations of laws *equally affecting* all, and whose provisions no sheriff or marshal can violate or interfere with; *or to entirely rest with a sheriff or marshal, on whose integrity, knowledge, or impartiality, or on whose want of these essential qualities*, is to depend the pure or corrupt administration of their laws. In a word, with the State Legislatures it now remains to be determined whether the citizens of the States I have mentioned are to be less free and less entitled to the inestimable privilege of trial by a fair and impartial jury, than their brethren in the Eastern and Southern States.

By the law of Congress now in force, juries are to be designated by lot or otherwise, in the manner *now in use* in the several States. From this it is to be presumed that whether Congress agree or not to the general reform I shall introduce, they will certainly always consent to a law conforming the practice of the several courts to the mode in use in the States where these federal courts are held. Hence it becomes highly important to these States, and their citizens, to insist that the State Legislatures shall alter their modes as soon as possible: they should make it an indispensable compact with the persons they elect to represent them; they should consider it as more dear to them than any other public act they could attend to. For how can that Government or that people be free, where the execution of their laws is to depend upon

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the will of an individual? How can any man whose political opinions differ from a marshal, be safely tried for any political offence touching his life, his character, or his fortune, while the political character of the jury, who are to try him, depends upon the selection of a marshal? Suppose for instance, a man is charged with a libel against the President of the United States; that this libel charges the President with acts of so important a nature and so injurious to the welfare of the Union, that, unless they can be removed or the writer convicted of a libel and punished, the President would be likely to lose the confidence of the people, and consequently his re-election to office; that the marshal of the district knows this; that the President's feelings are alive to the decision; that he feels his public character, the affections of the people in his principles, and his re-election to office all at stake: that, in short, it is of the utmost consequence to him, this person should be convicted and humbled. Under these circumstances, is it not expecting more than we have generally a right to expect from him, or natural to suppose, that the marshal will feel himself entirely unmoved; that he will carefully select moderate men, who are not attached particularly to party, and who will really compose so impartial a jury as to give the defendant a fair chance of having justice done him? Or is it not more correct to suppose, that in such a case a marshal will recollect that it was from the President he received his office; that he holds it at his pleasure; that if in a case so important to the President and where his feelings are so much alive, the marshal should be lukewarm or make a selection of men not approved, he would probably lose his office; but that if he should exert himself, array a decided jury, whose opinions on politics were not to be shaken, and procure a conviction, that the President would not be unmindful of his zeal, and that amongst the numerous lucrative appointments in his gift the marshal would not be forgotten? I ask if this is not the proper mode to reason a question of this sort? I allude not to particular cases. On general subjects where I conceive it my duty to act, I condescend not to mention anything that may have happened. I am endeavoring to regulate for the future. I thank Heaven that in the State to which I belong, juries are on the best establishment. I wish, for the honor of the United States, and the character of their judiciary, that the same purity and impartiality in the administration of justice should pervade the whole; that equal laws, and not the opinions or wishes of individuals, should govern in their decisions, and that the principles which were among the leading objects of the American Revolution, should forever obtain and be insured to our citizens: until they do, it is in vain for the people of those States to think that while their juries are summoned at will by a marshal, they are free—or that the citizens of the other States, having impartial juries, will ever think of removing to reside among them, or trust themselves or their fortunes under laws whose administration is so unsafe and precarious. Nor can there be a doubt, that when the difference in this

important part of their Government comes to be, as it will hereafter, perfectly understood, that in emigrations to this country, the enlightened foreigner will prefer living in States having impartial juries, to those in which, in every act and almost word of his life, he is to be at the mercy of a marshal, holding his office at the will of a President. This difference between Pennsylvania, Virginia, and the other States I have mentioned, and Southern ones, places the former in so unequal not to say degrading a situation with respect to the administration of justice, that I will not for a moment suppose they will any longer submit to so improper a system. I can never believe that when the subject has been fairly brought to their view, that States so enlightened, and so distinguished by their love of republican liberty, will feel themselves easy until they have obliged the State Legislatures to adopt the mode of drawing juries by lot. It is in vain to think of repealing seditious laws, or asserting the liberty of the press, as secured by the Constitution, until this reform takes place. This power in a marshal, is a more complete and severe check on the press, and the right of the people to remark on public affairs, than ten thousand seditious laws, because here the power to select and by that means govern the opinion of juries, is continual, always increasing, and in a great degree subject on every trial to the wishes and directions of a President. In times of party, when opinions run high, and contending factions oppose each other with violence, it is then truly dreadful. Justice, which has been represented and ought forever to be blind to the political opinions of men, becomes on these occasions as keen-eyed as the eagle, it pounces into every recess and corner of a State, drags forth the avowed and political enemies of the accuser, and arrays them on his jury. I will hope, for the freedom of our country, this has not yet taken place; but that it may, and that it should be guarded against, no man will deny. Let us, by adopting the model I recommend, or something like it, give to our citizens the comfort of reflecting that amidst the storms and conflicts which may attend a republican form, they will, on every question respecting their lives, characters, or fortunes, be always entitled to a fair and impartial trial by jury, secured by equal laws, the impartial election of which no man however elevated or no officer however willing can dare to control or interfere with. It is our duty to give to our citizens this valuable reform. They have a right, from the nature of our Government, to expect it; amidst all the fluctuations of parties and changes of men and measures, it will be to them a solid consolation to reflect that their private rights are secure, and that, with respect to these, their Government is indeed a Government of laws. Under this sacred guard the honest and the innocent may safely come to trial, nor will advocates be afraid to defend them, nor consider it as hopeless to attempt it. The people will revere your tribunals—they will then have no reason to fear that faction or corruption may curb your bench of justice, fill the seats of your jurors, or stain the annals of your judiciary with innocent blood sacrificed at the shrine

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of party or ambition; the dreadful evils which have disgraced the tribunals of other countries, will be avoided, and you will exhibit to an admiring and imitating world the finest and most unexceptionable form they have yet witnessed. Give them this improvement, and say that your judges, while they continue as such, shall hold no other offices, and we may safely defy any nation that has preceded us to exhibit a judiciary by any means comparable to the one we shall then possess.

MONDAY, February 3.

Mr. WATSON presented the petition of Abraham Franklin, and John Franklin, jun., merchants, of the city of New York, and owners of the ship *Amelia*, captured in the year 1799, by a French national corvette, and recaptured by the United States ship of war *Constitution*, and by the said Franklins purchased at public auction, praying for a new register; and the petition was read.

Ordered, That it be referred to MESSRS. WATSON, GOODHUE, and LANGDON, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to discharge Robert Sturgeon from his imprisonment;" in which they desire the concurrence of the Senate. They agree in part to the amendments of the Senate to the bill, entitled "An act to repeal part of an act, entitled 'An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned.'"

The bill first mentioned was read and ordered to the second reading.

Ordered, That the amendments of the House of Representatives to the amendments of the Senate to the bill, entitled "An act to repeal part of an act, entitled 'An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned.'" be referred to the committee to whom the bill was originally committed on the 15th of January last, to consider and report thereon.

Mr. LAURANCE presented the petition of Reuben Smith and Nathan Strong, praying payment for the bounty on certain articles exported by them; the formalities required by law being, through casualty, omitted.

Ordered, That the petition, and the papers accompanying the same, be referred to the committee appointed the 24th of December last, on the petition of Peter Auipoix, to consider and report thereon to the Senate.

The bill to establish a uniform mode of drawing juries by lot, in all Courts of the United States, was read the second time, and referred to Messrs. PINCKNEY, NICHOLAS, CHAPMAN, LAURANCE, and DEXTER, to consider and report thereon to the Senate.

On motion, by Mr. PINCKNEY, the subjoined resolution was read, and ordered to lie on the table:

Resolved, That the following amendment to the Constitution of the United States be recommended to

the adoption of the Legislatures of the different States; and that, when adopted by three-fourths of the said Legislatures, the same shall become a part of the said Constitution:

That neither the Chief Justice nor any Judge of the United States shall hold any other appointment, or office, under the Government of the United States, or the individual States, during his continuance in office as a Judge of the United States; and that the acceptance of such other office shall vacate the appointment of any Judge accepting the same.

Mr. Ross, from the committee to whom was recommended the bill, entitled "An act providing for the enumeration of the inhabitants of the United States," reported further amendments.

Ordered, That they lie for consideration.

Ordered, That the third reading of the bill, sent from the House of Representatives, entitled "An act for the relief of John Vaughan," be postponed to Wednesday next, and that, at 12 o'clock on that day, there be a call of this House.

TUESDAY February 4.

Mr. Ross, from the committee to whom was referred the amendments of the House of Representatives to the amendments of the Senate to the bill, entitled "An act to repeal part of an act, entitled 'An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned,'" made report. Whereupon,

Resolved, That the Senate do recede from their amendments disagreed to by the House of Representatives, and concur in their amendments to the amendments.

The bill, sent from the House of Representatives, entitled "An act to discharge Robert Sturgeon from his imprisonment," was read the second time and referred to Messrs. TRACY, BALDWIN, and DEXTER, to consider and report thereon to the Senate.

The Senate proceeded to consider the report of the committee to whom was recommended the bill, entitled "An act providing for the enumeration of the inhabitants of the United States," to which they agreed; and, having adopted sundry other amendments,

Ordered, That this bill pass to a third reading.

WEDNESDAY, February 5.

Agreeably to the order of the 3d instant, a call of the House was made, and the following members were present:

Messrs. Anderson, Baldwin, Bingham, Bloodworth, Brown, Chipman, Cocke, Dexter, Foster, Franklin, Goodhue, Greene, Gunn, Hillhouse, Howard, Langdon, Latimer, Laurance, Livermore, Lloyd, Marshall, Mason, Nicholas, Paine, Pinckney, Read, Ross, Schureman, Tracy, Watson, and Wells.

The bill, sent from the House of Representatives, entitled "An act for the relief of John Vaughan," was read the third time.

On motion to amend the preamble to the bill,

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a motion for the previous question was made; and upon a declaration from the VICE PRESIDENT, that the previous question is not in order upon an amendment to a bill, a motion was made that the question on the final passage of the bill be postponed until Monday next; and it passed in the negative.

And the proposed amendment being disagreed to,
Resolved, That this bill do pass.

THURSDAY, February 6.

The bill, sent from the House of Representatives, entitled, "An act providing for the enumeration of the inhabitants of the United States," was read the third time; and, being further amended.

Resolved, That this bill pass with amendments.

FRIDAY, February 7.

Mr. WATSON presented the petition of Lyon Lehman, praying remission of the duty on a number of fire-arms, imported from Hamburg, for reasons mentioned therein; which was read, and referred to Messrs. WATSON, LANGDON, and HOWARD, to consider and report thereon to the Senate.

Mr. GOODRUE, from the committee appointed to consider the subject, reported a bill for augmenting the compensation of the Senators and members of the House of Representatives of the United States; which was read, and ordered to the second reading.

Mr. TRACY, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to suspend in part an act, entitled 'An act to augment the Army of the United States, and for other purposes,'" reported amendments; which were read.

Ordered, That they be printed for the use of the Senate.

Mr. ROSS presented the memorial of George Isham and others, purchasers of certain tracts of land, between the Great and Little Miami rivers, of John C. Symmes, and praying confirmation of their contracts; and the petition was read.

Ordered, That it lie on the table.

MONDAY, February 10.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act giving further time to the holders of military warrants to register and locate the same;" a bill, entitled "An act for the relief of James Yard;" a bill, entitled "An act respecting the Mint;" a bill, entitled "An act declaring the assent of Congress to certain acts of the State of Maryland and Georgia;" and a bill, entitled "An act in addition to an act, entitled 'An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen,'" in which bills they desire the concurrence of the Senate.

The bills were severally read, and ordered to the second reading.

On motion, it was agreed, by unanimous consent, to dispense with the rule, and that the bill last mentioned in the message be again read at this time.

Ordered, That it be referred to Messrs. ROSS, BROWN, and DAYTON, to consider and report thereon to the Senate.

On motion, it was agreed, by unanimous consent, to dispense with the rule, and that the bill first mentioned in the message be now again read.

Ordered, That it be referred to the above mentioned committee, to consider and report thereon to the Senate.

The VICE PRESIDENT laid before the Senate a report from the Secretary for the Department of Treasury, of the goods, wares, and merchandise, exported from the United States, during one year, prior to the 1st day of October, 1799; exhibiting the amount exported to each foreign nation; and the report was read.

Ordered, That it lie on the table.

On motion, "That a committee be appointed to consider whether any compensation ought to be allowed to John Heckwelder, for the losses he sustained, during the war between the United States and Great Britain, and that the said committee have power to report by bill or otherwise;" it was agreed that the motion should lie on the table.

The bill for augmenting the compensation of the Senators and members of the House of Representatives of the United States was read the second time; and it was agreed that the further consideration thereof be postponed until to-morrow.

A message from the House of Representatives informed the Senate that the House have passed a resolution, authorizing the President of the Senate and the Speaker of the House of Representatives to adjourn their respective Houses on the first Monday in April next; in which they desire the concurrence of the Senate.

The resolution was read, and ordered to lie on the table.

A motion was made as follows:

Resolved, That the resolution of the Senate of the United States, passed on the 10th of February, 1796, requiring the Secretary of the Treasury to prepare annually, and lay before the Senate, in the month of January in each year, a statement of the imports of the United States, shall be, and the same is hereby, altered and amended so as not to require hereafter any statement of the amount exported to each foreign nation.

It was agreed that this motion lie on the table.

Mr. TRACY notified the Senate that he would to-morrow move for leave to bring in a bill for the relief of Ithamar Canfield.

The Senate took into consideration the amendment reported by the committee, to whom was referred the bill, sent from the House of Representatives, entitled "An act to suspend in part an act, entitled 'An act to augment the Army of the United States, and for other purposes,'" and it being adopted,

Ordered, That this bill pass to the third reading as amended.

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TUESDAY, February 11.

Agreeably to notice of yesterday, Mr. TRACY had leave to bring in a bill for the relief of Ithamar Canfield, which was read, and ordered to the second reading.

The bill, sent from the House of Representatives, entitled "An act declaring the assent of Congress to certain acts of the States of Maryland and Georgia," was read the second time, and referred to Messrs. HOWARD, GUNN, and PAINE, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act for the relief of James Yard," was read the second time, and referred to Messrs. BINGHAM, WATSON, and GOODHUE, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act respecting the Mint," was read the second time, and referred to Messrs. LIVERMORE, GOODHUE, and MARSHALL, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act to suspend in part an act, entitled 'An act to augment the Army of the United States, and for other purposes,'" was read the third time.

On motion, it was agreed to amend the amendment adopted yesterday, as follows:

"Sec. 2. *And be it further enacted*, That the provisions of this act shall not be construed to prevent the President from employing any officer or officers in recruiting for the four first regiments of infantry, and the two regiments of artillerists and engineers; and the President is hereby authorized to employ any officer or officers in the recruiting service for the aforesaid regiments, on the terms prescribed by law, and until the full complement of men are procured, pursuant to the first section of the act for the better organizing the troops of the United States, and for other purposes; any provision in the said section or act to the contrary notwithstanding."

And, on motion to strike out the amendment thus amended, it passed in the affirmative—yeas 17, nays 14, as follows:

YEAS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Dexter, Foster, Franklin, Greene, Hillhouse, Langdon, Livermore, Marshall, Mason, Nicholas, Paine, and Pinckney.

NAYS—Messrs. Bingham, Chipman, Goodhue, Gunn, Howard, Latimer, Laurance, Lloyd, Read, Ross, Schureman, Tracy, Watson, and Wells.

On motion to agree to the final passage of the bill, it passed in the affirmative—yeas 21, nays 10, as follows:

YEAS—Messrs. Anderson, Baldwin, Bingham, Bloodworth, Brown, Cocke, Dexter, Foster, Franklin, Goodhue, Greene, Gunn, Hillhouse, Howard, Langdon, Livermore, Marshall, Mason, Nicholas, Paine, Pinckney.

NAYS—Messrs. Chipman, Latimer, Laurance, Lloyd, Reed, Ross, Schureman, Tracy, Watson, and Wells.

So it was *Resolved*, That this bill pass.

Mr. ROSS, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act giving further time to the holders of military warrants to register and locate the same," reported amendments; which, being

considered, were disagreed to; whereupon, by unanimous consent, the bill was read the third time, and passed.

WEDNESDAY, February 12.

Mr. BALDWIN, presented the petition of Jonas Fauche, captain, and others, officers of the troop of militia dragoons, formerly under his command, praying compensation for military services in the State of Georgia; which was read, and referred to the Secretary for the Department of War, to consider and report thereon to the Senate.

Ordered, That the Message of the President of the United States, of the 8th of January last, together with the report of the Treasurer of the Mint, of the first of the said month, be referred to Messrs. HILLHOUSE, LIVERMORE, and GOODHUE, to consider and report thereon to the Senate.

Mr. WATSON, from the committee to whom was referred the petition of Abraham Franklin, and John Franklin, junior, reported that the prayer of the said petitioners ought not to be granted, and that they have leave to withdraw their petition; and the report was adopted.

The bill to augment the compensation of the Senators and members of the House of Representatives of the United States was read the second time; and, being amended,

Ordered, That it pass to the third reading as amended.

Mr. TRACY, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to discharge Robert Sturgeon from his imprisonment," reported amendments:

Ordered, That they be printed for the use of the Senate.

The Senate took into consideration the motion made on the 10th instant, relative to the propriety of allowing a compensation to John Heckwelder; and the motion was agreed to, amended as follows:

Resolved, That a committee be appointed to consider whether any compensation ought to be allowed to John Heckwelder for his services during the war between the United States and Great Britain; and that the said committee have power to report by bill or otherwise.

Ordered, that Messrs. ROSS, TRACY, and BLOODWORTH, be the committee.

The bill for the relief of Ithamar Canfield was read the second time, and referred to Messrs. TRACY, DEXTER, and CHIPMAN, to consider and report thereon to the Senate.

The Senate resumed the consideration of the motion made the 10th instant, to alter and amend the resolution of the Senate, of the 10th of February, 1796, requiring, from the Secretary for the Department of Treasury, certain statements, of imports and exports; and, after debate,

Ordered, That the further consideration thereof be postponed.

The Senate took into consideration the resolution of the House of Representatives for the adjournment of the two Houses of Congress on the first Monday in April next; and, after debate,

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Ordered, That the further consideration thereof be postponed until the second Tuesday in March next.

THURSDAY, February, 13.

The Senate took into consideration the amendment reported by the committee, to the bill sent from the House of Representatives, entitled "An act to discharge Robert Sturgeon from his imprisonment;" which was adopted, and the bill was ordered to the third reading as amended.

The bill for augmenting the compensation of the Senators and members of the House of Representatives of the United States was read the third time.

Ordered That the further consideration thereof be postponed until the first Monday in December next.

FRIDAY, February 14.

Mr. Ross, from the committee appointed the 28th of January last, reported a bill prescribing the mode of deciding disputed elections of President and Vice President of the United States; which was read and ordered to the second reading.

The bill, sent from the House of Representatives, entitled "An act to discharge Robert Sturgeon from his imprisonment," was read the third time.

Ordered, That it be recommitted to the committee to whom it was originally referred, further to consider and report thereon to the Senate.

MONDAY, February 17.

The VICE PRESIDENT laid before the Senate a report relative to the claim of Seth Harding, in pursuance of the act, entitled "An act for the relief of the refugees from the British provinces of Canada and Nova Scotia," signed James M'Henry, Oliver Wolcott, and John Steele; and the report was read.

Ordered, That it be referred to Messrs. LANGDON, HILLHOUSE, and PAINE, to consider and report thereon to the Senate.

Mr. TRACY, from the committee to whom was referred the bill for the relief of Ithamar Canfield, reported amendments thereto, which were read.

Ordered, That they lie for consideration.

The bill prescribing the mode of deciding disputed elections of President and Vice President of the United States was read the second time; and the further consideration thereof postponed until Wednesday next.

On motion by Mr. GREENE,

"That it be referred to the Secretary of the Treasury to prepare and report to this House a plan for establishing an uniformity in the weights and measures of the United States."

It was agreed that this motion lie for consideration.

On motion, by Mr. MARSHALL, that it be

"Resolved, That a committee be appointed to inquire if the Indian title has been extinguished to any land,

and if to any, what land, lying in the State of Tennessee to which the United States hath a right by cession from North Carolina:

It was agreed that this motion lie on the table.

Mr. Ross, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act in addition to an act, entitled 'An act regulating the grants of land appropriated for military services and for the Society of the United Brethren for propagating the Gospel among the Heathen,'" reported amendments, which were read.

Ordered, That they lie for consideration.

TUESDAY, February 18.

Mr. HOWARD presented the petition of Jeremiah Yellott, praying liberty to export a number of firearms and cutlasses, not adapted to the use of the army or navy; and the petition was read.

Ordered, That it be referred to Messrs. HOWARD, WATSON, and TRACY, to consider and report thereon to the Senate.

Mr. ANDERSON presented the petition of Shadrack Inman, of the State of Tennessee, praying compensation for property taken from him for public service in the State of North Carolina, in the year 1780; and the petition was read.

Ordered, That it be referred to Messrs. ANDERSON, CHIPMAN, and BLOODWORTH, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to extend the time of payment of bonds given for duties of impost in certain cases," in which they desire the concurrence of the Senate.

The bill was read and ordered to the second reading.

The Senate took into consideration the amendments reported by the committee, to the bill, sent from the House of Representatives, entitled "An act in addition to an act, entitled 'An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen,'" which amendments were adopted; and the bill was ordered to the third reading as amended.

WEDNESDAY, February 19.

The bill, sent from the House of Representatives, entitled "An act to extend the time of payment of bonds given for duties of impost in certain cases," was read the second time and referred to Messrs. GOODHUE, WATSON, and TRACY, to consider and report thereon to the Senate.

The Senate took into consideration the amendments reported by the committee, to whom was referred the bill for the relief of Ithamar Canfield.

Ordered, That the bill be recommitted to the original committee, further to consider and report thereon to the Senate.

Agreeably to the order of the day, the Senate took into consideration the bill prescribing the

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mode of deciding disputed elections of President and Vice President of the United States; and, after debate, adjourned.

THURSDAY, February 20.

Mr. GOODHUE presented the petition of the executors of Elias Haskett Derby, late of Salem, in the State of Massachusetts, praying the interposition of Congress in regard to the tax assessed on the mansion-house of the deceased, stated to have been over estimated in the valuation; and the petition was read.

Ordered, That it be referred to the Secretary for the Department of Treasury, to consider and report thereon to the Senate.

Mr. BINGHAM, from the committee to whom was referred the bill sent from the House of Representatives, entitled "An act for the relief of James Yard," reported the bill without amendment.

The Senate resumed the consideration of the bill prescribing the mode of deciding disputed elections of President and Vice President of the United States.

On motion to strike out of the first section of the bill the following words:

Together with the Chief Justice of the United States, or, if he be absent from the Seat of Government or unable to attend, then with the next senior Judge of the Supreme Court of the United States, who may be present and able to attend.

It passed in the negative—yeas 11, nays 19, as follows:

YEAS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Franklin, Langdon, Marshall, Mason, Nicholas, and Pinckney.

NAYS—Messrs. Bingham, Chipman, Dayton, Dexter, Foster, Greene, Gunn, Hillhouse, Howard, Latimer, Laurance, Livermore, Paine, Read, Ross, Schureman, Tracy, Watson, and Wells.

On motion to strike out these words from the 1st section: "to choose by ballot in each House six members," and in lieu thereof to insert "to draw by lot in each House — members:"

It was determined in the negative—yeas 9, nays 18, as follows:

YEAS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Langdon, Marshall, Mason, and Nicholas.

NAYS—Messrs. Chipman, Dayton, Dexter, Foster, Franklin, Goodhue, Greene, Gunn, Hillhouse, Latimer, Laurance, Livermore, Paine, Read, Ross, Schureman, Tracy, and Wells.

Ordered, That the further consideration of the bill be postponed.

The bill, sent from the House of Representatives, entitled "An act in addition to an act, entitled 'An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen,'" was read the third time; and, after debate,

Ordered, That the further consideration thereof be postponed.

FRIDAY, February 21.

Mr. GOODHUE, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to extend the time of payment for bonds given for duties of impost, in certain cases," reported the bill without amendment.

Mr. WATSON, from the committee to whom was referred the petition of Lyon Lehman, reported that the committee have leave to bring in a bill for his relief; and the report was adopted; and ordered that the committee bring in a bill accordingly.

The bill, sent from the House of Representatives, entitled "An act for the relief of James Yard," was read the second time, and ordered to the third reading.

Resolved, That the Senate will, to-morrow, at half past 12 o'clock, meet at the Senate Chamber, and from thence walk in procession to the German Calvinist Church in Race street, to hear the eulogium pronounced on the character of General WASHINGTON.

The Senate resumed the consideration of the bill, sent from the House of Representatives, entitled "An act in addition to an act, entitled 'An act regulating the grants of land appropriated for military services, and for the Society of United Brethren for propagating the Gospel among the Heathen.'"

Resolved, That this bill pass with amendments.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act further to suspend the commercial intercourse between the United States and France, and the dependencies thereof;" and a bill, entitled "An act to establish a uniform system of bankruptcy throughout the United States;" in which bills they desire the concurrence of the Senate.

The bills were read, and ordered to the second reading.

The Senate resumed the second reading of the bill prescribing the mode of deciding disputed elections of President and Vice President of the United States; and, after debate,

Ordered, That the further consideration thereof be postponed.

Mr. TRACY notified the Senate that he should, on a future day, ask leave to bring in a bill providing for the punishment of persons who may be convicted of frauds in squandering money, or other property of the United States, with which they have been entrusted.

SATURDAY, February 22.

The bill, sent from the House of Representatives, entitled "An act further to suspend the commercial intercourse between the United States and France, and the dependencies thereof," was read the second time, and referred to Messrs. GOODHUE, READ, and BINGHAM, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives,

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entitled "An act to establish an uniform system of bankruptcy throughout the United States," was read the second time, and referred to Messrs. LAURANCE, CHIPMAN, HILLHOUSE, LIVERMORE, and READ, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act for the relief of James Yard," was read the third time, and passed.

MONDAY, February 24.

A message from the House of Representatives informed the Senate that the House concur in the amendments of the Senate to the bill, entitled "An act providing for salvage in cases of recapture," with amendments, in which they desire the concurrence of the Senate. They have passed a bill, entitled "An act to allow a drawback of duties on goods exported to New Orleans, and therein to amend the act, entitled 'An act to regulate the collection of duties on imports and tonnage,' in which bill they desire the concurrence of the Senate.

The bill last mentioned was read, and ordered to the second reading.

Mr. GOODHUE, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act further to suspend the commercial intercourse between the United States and France, and the dependencies thereof," reported the bill without amendment; and, after debate, it was agreed that the further consideration of the bill at this time be postponed.

The Senate took into consideration the amendments of the House of Representatives to their amendments to the bill, entitled "An act providing for salvage in cases of recapture."

Ordered, That they be referred to Messrs. GOODHUE, LAURANCE, and LANGDON, to consider and report thereon to the Senate.

Mr. LANGDON, from the committee to whom was referred, on the 17th instant, the case of Seth Harding, reported a bill for his relief; which was read, and ordered to a second reading.

The Senate resumed the second reading of the bill prescribing the mode of deciding disputed elections of President and Vice President of the United States.

On motion, to amend the bill, section 5th, line 7th, so as to provide that the proceedings of the committee be held in public, by striking out the words "with closed doors," and inserting, "in the Chamber of the House of Representatives, with open doors," in lieu thereof:

It passed in the negative—yeas 8, nays 16, as follows:

YEAS—Messrs. Anderson, Baldwin, Bloodworth, Cocke, Franklin, Langdon, Mason, and Nicholas.

NAYS—Messrs. Bingham, Chipman, Foster, Goodhue, Greene, Hillhouse, Howard, Latimer, Laurance, Livermore, Marshall, Paine, Read, Ross, Tracy, and Wells.

And, after progress, the further consideration of the bill was postponed.

TUESDAY, February 25.

The bill authorizing Seth Harding to locate certain lands in the Territory of the United States Northwest of the river Ohio, was read the second time; and, after debate, the further consideration thereof was postponed.

A message from the House of Representatives informed the Senate that the House agree to all the amendments of the Senate to the bill, entitled "An act providing for the enumeration of the inhabitants of the United States," except the 10th, to which they disagree. They have passed a bill, entitled "An act to continue in force an act concerning certain fisheries of the United States, and for the regulation and government of the fishermen employed therein, and for other purposes, as therein mentioned," in which they desire the concurrence of the Senate. They agree to all the amendments of the Senate to the bill, entitled "An act in addition to an act, entitled 'An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen,' except to those of the first section, to which they disagree.

The bill last brought from the House of Representatives, for concurrence, was read, and ordered to the second reading.

The Senate proceeded to consider their amendment disagreed to by the House of Representatives to the bill first mentioned in the message. Whereupon,

Resolved, That they do recede from their said amendment.

The Senate took into consideration their amendments disagreed to by the House of Representatives to the bill last mentioned in the message. Whereupon,

Resolved, That a conference be requested on the amendments disagreed to, and that Messrs. Ross and Brown be the managers at the same on the part of the Senate.

Mr. PINCKNEY, from the committee to whom was referred the bill to establish an uniform mode of drawing jurors by lot, in all the Courts of the United States, reported amendments, which were read.

Ordered, That they be printed for the use of the Senate.

The VICE PRESIDENT laid before the Senate a report from the Secretary of the Department of Treasury, on the memorial of the executors of the late Elias Haskett Derby, of Salem, in the State of Massachusetts; which was read.

Ordered, That it lie on the table.

The Senate resumed the second reading of the bill, sent from the House of Representatives, entitled "An act further to suspend the commercial intercourse between the United States and France, and the dependencies thereof."

On motion, to strike out, in section 2, line 3, the word "Europe," and insert these words: "foreign countries," it passed in the negative—yeas 11, nays 16, as follows:

YEAS—Messrs. Anderson, Baldwin, Bloodworth,

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Brown, Cocke, Franklin, Gunn, Marshall, Mason, Nicholas, and Pinckney.

YAYS—Messrs. Bingham, Chipman, Dayton, Goodhue, Greene, Hillhouse, Howard, Langdon, Latimer, Laurance, Livermore, Lloyd, Paine, Ross, Tracy, and Wells.

On motion to strike out the 6th section, as follows:

"SEC 6. And be it further enacted, That, at any time after the passing of this act, it shall be lawful for the President of the United States, by his order, to remit and discontinue, for the time being, whenever he shall deem it expedient, and for the interest of the United States, all or any of the restraints and prohibitions imposed by this act, in respect to the territories of the French Republic, or to any island, port, or place, belonging to the said Republic, with which, in his opinion, a commercial intercourse may be safely renewed: and, also, it shall be lawful for the President of the United States, whenever he shall afterwards deem it expedient, to revoke such order, and hereby to re-establish such restraints and prohibitions; and the President of the United States shall be, and he is hereby, authorized to make proclamation thereof accordingly."

It passed in the negative—yeas 11, nays 16, as follows:

YEAS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Franklin, Langdon, Marshall, Mason, Nicholas, and Pinckney,

NAYS—Messrs. Bingham, Chipman, Dayton, Goodhue, Greene, Gunn, Hillhouse, Howard, Latimer, Laurance, Livermore, Lloyd, Paine, Ross, Tracy, and Wells.

And the bill being amended, it was ordered to the third reading, as amended.

The Senate took into consideration the motion made on the 17th instant, relative to the Indian titles of land extinguished within the State of Tennessee; and, after debate, it was agreed that the motion be withdrawn.

A motion was made, by Mr DAYTON, that it be *Resolved*, That a standing Committee of Privileges, consisting of — members, be appointed.

Ordered That it lie for consideration until tomorrow.

WEDNESDAY, February 26.

On motion, by Mr. MARSHALL,

Whereas the United States, by act of cession from the State of North Carolina, claim the vacant and unappropriated lands within the State of Tennessee: And whereas the said State also claims these lands, as appears by an act of the Legislature thereof, passed the 5th day of January, 1799: And whereas it is desirable that the interfering claims should be settled in the most amicable manner; Therefore,

Resolved, That a committee be appointed to investigate the respective claims, and to inquire what will be the most advisable mode of settling them; and that the committee be authorized to report by bill or otherwise.

Whereupon a motion was made to amend the motion, as follows:

Resolved, That a committee be appointed to inquire into the situation and extent of the vacant and unappropriated lands claimed by the United States under the

cession of the State of North Carolina, and the expediency of making provision for the disposition thereof.

And it was agreed that the motion and amendment lie for consideration, and in the mean time be printed for the use of the Senate.

A message from the House of Representatives informed the Senate that the House have agreed to the conference, desired by the Senate, on the subject-matter of the amendments depending between the two Houses to the bill, entitled "An act in addition to an act, entitled 'An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen,'" and have appointed managers at the same on their part.

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The bill, sent from the House of Representatives, entitled "An act further to suspend the commercial intercourse between the United States and France, and the dependencies thereof," was read the third time.

Mr. PINCKNEY said, I feel much pleasure in being present at this discussion, because I have always wished that some parts of this bill, particularly those that relate to the delegation of the powers to the President, in the recess of Congress, should be maturely examined, in order that I might hear the reasons upon which, what appears to me, so unusual and unconstitutional a delegation of authority has taken place. Open as I always wish to be to conviction, it will give me much satisfaction to find that my doubts can be removed, and that the arguments I shall use against the bill can be answered and refuted. It is easily to be perceived that this bill is an important one to all the Union, but particularly to the Southern States. It will be my endeavor to show that very serious inconveniences have arisen from the former bill, which this is intended to revive, both to Virginia and Maryland, as well as to North and South Carolina and Georgia. I am not, it is true, so anxious about it as I was formerly, because I trust our Commissioners have used their powers so well, that an honorable and pacific arrangement with France will soon take place. I shall not, therefore, at this time, go into any observations on the nature and origin of our dispute with France, or give my opinions on that subject; they have already been frequently given and well known, nor do I see any reason to alter them. I have strong Constitutional objections to this bill, which it is my duty to state, and which compel me not to suffer it to pass with a silent vote.

The precedents, sir, which any measures that are unconstitutional furnish, and the abuses to which they may be converted, are always to be guarded against. I have said, on a former occasion, that improper doctrines or precedents, whether under the form of resolutions or of laws, if not early opposed, were strengthened by time, and became liable to be applied to pernicious purposes. Upon examining the laws which are contained in the fourth volume, and which have been passed since March, 1797, there is reason to apprehend the pre-

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cedents established by some of them, may hereafter be more inconvenient in their consequences to our peace and safety than even that sort of maritime warfare, in which alone there is ever any danger of this country being engaged with an European Power. The present bill I consider of the like character, and I therefore very earnestly hope that a pacific arrangement will be concluded, which may prevent the effects I am afraid this additional precedent will afford. I consider it as springing from the same source with most of the measures which have been agitated for the last two years, particularly the provisional army, and as going to establish the precedent of granting to the Executive powers, in my judgment, unwarranted by the Constitution—of paving the way to that Executive and Ministerial influence in the affairs of our Government which may hereafter render the Representative part of it, and the direction and influence they ought to have, more a name than anything else. It is astonishing to me, that, having the examples on this point of another nation before us—examples which we must recollect were held forth by Congress, during the Revolutionary war, in the strongest language, as beacons to warn us of similar dangers—we should, at so early a day, be preparing to precipitate ourselves into the same system.

Look to Great Britain, from the first day of the present monarch's reign, and see what has been the progression of Executive and Ministerial influence there, within that time. Let any gentleman attentively examine the book entitled, "The history of the two acts passed, one for the preservation of the King's person against treasonable practices and attempts, and the other to prevent seditious practices and assemblies," and there will he find the best account I have met with, of the measures which have been pursued, step by step, to establish this Ministerial and Executive influence, until, by the confession of the most able and moderate of their own writers, the all-controlling power of the Minister is now such, that he can always direct their Parliament as he pleases, and plunge them in any war his personal resentment or self-interest may prompt him to, regardless of the expense or true interests of the nation. This enormous power in the hands of their Executive and Ministers, and the total loss of influence in the Representative part of their Government, must be attributed not to any one, but to a variety of measures, successively introduced, at first little suspected, but at length, under the sanction of precedent, increased to an alarming extent. Some gentlemen, who view such acts as the present improper, are averse to opposing them, because they think they see intility in the attempt. I differ from them extremely, and consider it as the duty of every member to express his sentiments on such measures as appear improper, and to resist them, even though satisfied of the immediate inefficiency of that opposition, as it serves to keep the public mind awake to its safety and the conduct of their constituted authorities.

This bill is a branch of that system which has been pursued by the friends and supporters of the

present Administration, for two or three years, with constant and too effectual perseverance, for increasing the power of the Executive. In a former session, we have seen a large army voted, which has since been partly raised, and is now resolved to be reduced. There was also an act authorizing the President to raise, if in his opinion the danger was so great as to require it, 10,000 men, as a provisional army, and, of his own and sole authority, to commission all the officers; there was also in this act, a clause authorizing the President to accept of the service of volunteer corps, and to appoint all the commissioned officers; although there is an express clause in the Constitution, which says, that the appointment of all the officers of the militia, who may be employed in the service of the United States, shall be reserved to the States respectively. I must confess, I view this delegation to the President, of the power to raise this provisional army or not, as in his opinion the danger of our situation may require, and the power intended to be given by this bill, to remit the prohibition of intercourse, and renew it again, with the whole, or any part of the French dominions, as he pleases, as so intimately connected, and as standing so precisely on the same principles, that although it may not be perfectly in order, yet, in considering the one, I cannot help glancing at the other, as they both serve to bring before you the important question, how far the Constitution authorizes Congress to delegate to the President the exercise of such extensive powers. I have no doubt, in my own mind, that the Constitution does not authorize the delegation of these authorities, and it is among the reasons that induce me to vote against this bill. It will be granted that no powers are more important to a nation than those to regulate commerce, and to declare war—these, therefore, are both exclusively given to Congress. It is observable, that although the power to make peace is given to the President, with the advice and consent of two-thirds of the Senate, yet, that so guarded is the Constitution upon the subject of war, that this is given to Congress—they alone can declare war, they alone can regulate commerce; nor can they constitutionally delegate this exercise of their authorities, by any limitations they can annex to the manner in which their agent is to execute them: they are powers so great, and so important to the peace and dearest interests of the people, that they are vested in Congress—they, and they alone, are to judge from the circumstances before them, whether war, or measures that may in their tendency involve a war, are expedient. With them also rests the power to say what shall be the nature of our commerce, or the regulations necessary to its rights and safety; with whom and under what conditions it shall be carried on; with what nations, and for what time it shall be interdicted. And are not these powers so great that they ought never to be exercised but by the representatives of the people? In giving to them exclusively the powers of war and commerce, does not the grant include all their incidental authorities? Where is the part of the Constitution which authorizes their delega-

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tion of them? If it has wisely said, that delicate and important powers like these ought only to be exercised by the representatives of the people—that they are the only safe depositories of them; that they ought to judge when measures are to be adopted, which may in their consequences lead to war—that they alone ought to judge how far commercial prohibitions, extending to a whole nation and its territories, ought to be carried, when removed, and when again renewed—can they delegate this authority without interfering with the intentions of the Constitution? The design of that instrument clearly was, that no individual should possess the dangerous power of involving this country in war, or of regulating its commerce; and yet will any man deny, that the powers here delegated are not such as may, by an unwise or precipitate use of them, lead inevitably to war? In the act I have alluded to, respecting the provisional army, how great is the power given to an individual, to raise or not, as he pleases, an army of 10,000 men, and in the present to open or shut the intercourse with the dominions of one of the greatest Powers in the world! Is not this, as far as those dominions extend, and during the continuance of the law, completely giving to the President the power to regulate commerce? Are not, in fact, these continued delegations adding to the precedents for establishing an Executive influence in this country, which may one day increase to what it is in England? We know what it is there, and we begin to see what it may be here; it must ever be too great here, by what I have always considered as improper in the Constitution, the giving to the President the nomination to all offices. But if we are perpetually to add to it in this manner, there will be no knowing where it will end. Only consider what would have been the patronage of a whole army, and the immense power of opening either wholly or partially a trade so important as this is, and shutting it at his pleasure. If he should determine to open it at some fixed period, he cannot lock up this in his own breast. He has executive officers he always consults, and must they not know, and may they not have commercial and other friends to whom they may entrust so important a secret? Is it not possible such things may happen? Has not rumor been already busy on this subject? Have we not heard complaints about the manner in which the trade to St. Domingo was carried on last year, or have they not yet reached this or the other branch? But whether they have or not, or any improper conduct has taken place, is not so great a power open to the abuse and evils I have mentioned? Is it not vesting a power unauthorized by the Constitution, and adding immensely to that Executive influence which has already become too great? The only truly vulnerable part in our Constitution is the patronage of the Executive, and the establishment of that undue influence in our councils, which may one day contribute to destroy the important agency which the nature of our Government, and the safety of the people, always require the representative part of it to possess. This I have already observed must al-

ways be too great, by the Constitution giving to the President the right to nominate to all offices, and his agency in the formation of treaties. To balance and in some degree to correct this too great influence in the Executive, it ought to be the care of Congress never to add to it, if it can be avoided with any kind of convenience, lest they should destroy their own necessary and Constitutional weight in the Government. That as they alone are authorized to put their hands into the pockets of their constituents, they only ought to judge and decide upon those great legislative questions, which may lead to requisitions for money or to cramp or touch the means by which alone our citizens can furnish it. That the power to adopt measures that may in their tendency lead to or touch the subject of war or commerce, is so intimately connected with the power to tax, that we may just as well suppose Congress can delegate the right to the President to lay and levy taxes as they can the authority to regulate commerce in the way this bill proposes. I will suppose a case, that Congress should be of opinion a sum of money might possibly be wanted during their recess; that they were to determine the amount, and vest the President with the power to call for it or not, as he should please; but if he did require it, he should have the authority to lay and levy taxes for that purpose. Suppose an attempt of this sort was made, and that the Executive should levy taxes on houses and lands, and except from the tax money at interest, stock, or that kind of property which he wishes to favor; could you justify the delegation of such authority, or wonder at the abuse of it? No gentleman will say such a delegation could constitutionally be made. Yet you can delegate with infinitely more safety the regulation of taxes than of commerce, because, by the means of commerce, you not only give an arbitrary power over the natural wealth of a particular State, or part of a nation, but you give a power which enables the person trusted with it at all times to involve the country in war, by granting particular favors to one nation, or a part of a nation, which are denied to another. Who will undertake to say, that by such a power over the commerce of a country, it may not at any time be involved in war? Yet you cannot, by the Constitution, delegate the right to make war. How then can we rush into so great an inconsistency, as to give, indirectly, a power which is directly precluded from delegation?

This bill not only goes to keep up the present state of things with France, but may, by a part of it, eventually involve you in a war with Spain, a Power with which you are not only upon friendly terms at present, but carry on one of the most lucrative branches of your foreign commerce—I mean the trade with Cuba. You have by this bill declared, that for its purposes, the whole of Saint Domingo should be considered as a dependency of France, notwithstanding it is well known that the Spanish part of it is in possession of their Government and its officers, and ought to be considered as a part of the Spanish territories, until it has been formally delivered to

the French, and their officers govern it. It may be said that we know, by the treaty between Spain and France, it was ceded to the latter; but how can we be sure that since that period some secret agreement has not taken place, and that it is returned to Spain? Is it not probable, by her keeping possession, that it is so; and ought not the delivery of the place, and the change of rulers and laws, to be the criterion with us for judging to what power a territory belongs? Can the annexing the Spanish part of that island to the French, for the purposes of this bill, be an object with us to risk the enmity of Spain, and the loss of the Havana trade to our merchants? I should suppose not; and that this new section is an unnecessary and impolitic one, and ought not to be adopted.

I come now to the policy of continuing this bill at all, or, if at all, whether it can be politic to extend it, as the last mentioned section proposes; or whether it would not be better to narrow its limits, and the territories it is to affect. I know it is a favorite theme with the Government, that until a peace is established with France, we must preserve our attitude, and keep up all the measures of defence that have been gone into, to protect us from her hostility. When, therefore, we see several of those measures either relaxed in or altered, or no measures taken to renew them; such, for instance, as stopping the enlistments for the army, and not reviving the alien law, or pushing the building of the seventy-fours, it is a strong proof that Government and its friends think there is a sincerity in the offers of the French, and that our negotiations will terminate successfully. Honorable peace, therefore, being our great object, may not suffering this act to expire without renewal, or if revived, by lessening its restrictions, and the places it is to operate upon, hold out such confidence, on the part of our Government, in the sincerity and justice of the French administration, as may be the best means of insuring future conciliation and friendship? No great danger can arise to our commerce, for few of our merchants will venture, until they know that peace is made; and if the reports which are in circulation are true, that they have ordered their cruisers to respect our neutral rights, the risks will be very small.

I have no doubt, myself that peace will be made; it is peculiarly the interest of France to have it, and this cannot be unknown to or undesired by the consummate politician who now directs her affairs. I am sure it is the wish of every gentleman to do all in his power to promote the desirable end of honorable peace, particularly of those from the Southern States. It is on them the weight of the loss of the commercial intercourse with France has principally fallen. The Northern and Eastern States have not been without feeling their share of the loss of an intercourse with its European dominions, and, until August, with the West Indies; but from Maryland inclusively to Georgia, has the loss been greatest. Our whole exports were 78,664,000 dollars, of which 33,142,000 are of domestic growth, and upwards of 45 millions of foreign. Of our domestic growth,

nearly ten millions of pounds of cotton, and very little short of one hundred thousand hogsheads of tobacco are exported. Flour and rice are also considerable articles; upwards of 110,000 barrels of rice being exported, and principally from South Carolina. It will be easily seen, that if in the exports of these articles, the French market had been open, and added to the other European markets, that in the sales of our tobacco, cotton, flour, and rice, the prices must have been greatly increased. From some regulations I am informed of in the custom-houses, I have not been able particularly to ascertain the amount of exports from each State to France. I am told, that the exports from Philadelphia, for 1796, were, to France, 913,880 dollars; to the French Antilles, 3,250,584; to the islands of France and Bourbon, 20,967. This being the export from that city alone, we may easily judge how great must be the amount of exports from all the States, and how important this intercourse is. I have been credibly informed, that while the Virginia and North Carolina tobacco planters, and the Georgia and South Carolina tobacco and rice planters were obliged at one time to take for their tobacco, four and five dollars per hundred here, that that article was selling in France at fifty dollars; and while the rice planters were obliged to take six and seven shillings, that rice sold there at upwards of thirty-eight livres; and that cotton is now selling there at a price which is so great, that the moment the intercourse is opened, there is no knowing to what an amount the price of cotton in Georgia and South Carolina will be increased. Although the Northern States may suffer in some degree in having the intercourse with France stopped, they are by no means injured in proportion with the Southern States, because the Northern have an important commerce direct with the East Indies, which is scarcely known, and not at all pursued, in the Southern States: they therefore by no means feel the loss occasioned by this intercourse as much as we do. View the price of tobacco at this moment, and what was the low price of rice, until the accident of a scarcity in England has given it for the present a rise. Indeed, to any man the least acquainted with the subject, there can be no difficulty in asserting, that on the Southern States has the loss of this intercourse principally fallen, and that whenever the American Government shall deem it expedient to stop it, the tobacco planters of Virginia and Maryland, and the rice, cotton, and tobacco planters of Georgia and North and South Carolina will always have to bear the principal part of the loss. Nor do I believe, that this act has answered the end intended by it, which was to distress France, and deprive her of these articles, so necessary to her convenience. She has generally obtained them, notwithstanding our prohibition, by the way of Hamburg and Great Britain. It is true the French have had to pay higher for them by this circuitous route; but it is equally true, the Southern American planters have in consequence had to sell them at a lower price. It has entirely destroyed all competition in their market, and placed them entirely at the mercy of the Ham-

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burg and British merchants. In short, it has contributed to make Great Britain principally, and Hamburg in a less degree, the depots of all American produce; for, while this intercourse is prohibited, we have scarcely any other market to send it to. We must entirely depend on the British market, and it operates, in point of commerce, almost as conveniently for them, as if we were still their colonies. In mentioning this, I desire by no means to be understood as intending to justify the conduct of France, in capturing our vessels, or refusing to treat with us. Their conduct was not only unjustifiable, but impolitic in the extreme; and their then rulers must have been blind to their own interests. But I have done it with a view to show the importance of the intercourse with France, whenever our national honor and safety permit, and that nothing but the most urgent necessity can justify our continuing the prohibitions a day longer than is necessary.

I consider it as my duty to make a remark here, which springs necessarily from the question—it is this: that as our original ground of dispute with France, was the illegal capture of our vessels, contrary to the law of nations, that we ought to convince France and the world that our conduct is intended to be equal to all nations; that it is not because they have any particular prejudice against France, that our Government adopt these measures, but because she has violated their neutral rights; and that whenever any other nation acts in a similar manner, our Government will use every exertion to remove the inconvenience, and endeavor, at least by examination and remonstrance, to have justice done to their citizens. I did, therefore, expect that long before this, some inquiry would have been made into the captures which have been alleged to be made of our vessels by other nations. It is loudly asserted in the papers, that a very great number of our vessels have been taken; and that, in a variety of instances, the most established principles of the laws of nations have been violated. If so, we have a right to expect the same measures of protection as were taken with respect to France, will now be afforded to our merchants against the depredations of any other Power, and that our Government will prove itself just and impartial in all its proceedings to every nation. I hope it will, and that all its operations may be so founded in wisdom and policy, as not only to restore to us the peace of our former friends, but to insure to us the blessings of an undisturbed commerce with all the world.

For the reasons I have mentioned, I shall vote against this bill. Indeed, if I was ever so much convinced of the propriety of continuing the prohibition until peace was made with France, I should vote against this bill, in its present form, on the ground that the delegation of power it contains, is unconstitutional; and that in our Government nothing can be more dangerous to its freedom and future fate, than the increase of the patronage and influence of the Executive—that it goes to destroy entirely the unbiased Constitutional agency of the Representative branch, and undermine our liberties, precisely in the manner

that the ruin of every free government has been formerly occasioned.

“Men (says Algernon Sidney) are naturally prone to corruption, and if he whose interest and will it is to corrupt them, be furnished with the means, he will never fail to do it. Power, honors, riches, and the pleasures that attend them, are the baits by which men are drawn to prefer their personal interest before the public good; and the number of those who covet them is so great, that he who abounds in them will be able to gain so many to his service, as shall be able to subdue the rest. It is hard to find a tyranny in the world that has not been introduced this way; for no man by his own strength, could subdue a multitude; no one could ever bring many to be subservient to his ill designs, but by the rewards they received or hoped. By this means Caesar accomplished his work, and overthrew the liberty of his country, and with it all that was then good in the world. They who were corrupted in their minds, desired to put all the power and riches into his hands, that he might distribute them to such as served him.”

With these reasonings of this illustrious patriot, to whose force it is impossible to add, I shall conclude my observations against the bill.

The question was then taken on the passage of the bill, and it was determined in the affirmative—yeas 19, nays 10, as follows:

YEAS—Messrs Anderson, Bingham, Chipman, Dayton, Foster, Goodhue, Greene, Gunn, Hillhouse, Howard, Lloyd, Paine, Ross, Tracy, Watson, and Wells.

NAYS—Messrs. Baldwin, Bloodworth, Brown, Cocke, Franklin, Langdon, Marshall, Mason, Nicholas, and Pinckney.

So it was, *Resolved*, That this bill pass with the amendments.

The Senate took into consideration the motion made yesterday, that a standing Committee of Privileges, consisting of — members, be appointed.

On motion, it was agreed that the motion be amended to read, as follows:

Resolved, That a Committee of Privileges, consisting of five members, be appointed, to continue during the present session.

* And, on motion to agree to the motion as amended, it passed in the affirmative—yeas 22, nays 7, as follows:

YEAS—Messrs. Anderson, Bingham, Brown, Chipman, Dayton, Foster, Franklin, Goodhue, Greene, Gunn, Hillhouse, Howard, Latimer, Laurance, Livermore, Lloyd, Marshall, Paine, Ross, Tracy, Watson, and Wells.

NAYS—Messrs. Baldwin, Bloodworth, Cocke, Langdon, Mason, Nicholas, and Pinckney.

So it was, *Resolved*, That a Committee of Privileges, consisting of five members, be appointed, to continue during the present session; and that Messrs. DAYTON, TRACY, LATIMER, CHIPMAN, and BROWN, be the committee.

Mr. HOWARD, from the committee to whom was referred the bill, sent from the House of Representatives, entitled “An act declaring the assent of Congress to certain acts of the States of Maryland and Georgia,” reported the bill without amendment.

A motion was made, by Mr. TRACY, that it be

Resolved, That the Committee of Privileges be, and they are hereby, directed to inquire who is the editor of the newspaper printed in the city of Philadelphia, called the General Advertiser, or Aurora, and by what means the editor became possessed of the copy of a bill prescribing the mode of deciding disputed elections of President and Vice President of the United States, which was printed in the aforesaid newspaper, published Wednesday morning, the 19th instant, February, and by what authority he published the same; and by what authority the editor published in the same paper that the honorable Mr. Pinckney, a Senator from South Carolina, and a member of the committee who brought before the Senate the bill aforesaid, had never been consulted on the subject. And generally to inquire the origin of sundry assertions in the same paper, respecting the Senate of the United States, and the members thereof, in their official capacity, and why the same were published; and make report to the Senate. And that the said committee have power to send for persons, papers, and records, relating to the subject committed to them.

Ordered, That this motion lie for consideration.

The Senate resumed the second reading of the bill prescribing the mode of deciding disputed elections of the President and Vice President of the United States; and after progress, adjourned.

THURSDAY, February 27.

Mr. BINGHAM presented a memorial, signed by the President of the Board of Health for the city of Philadelphia, praying a more general extension of the quarantine laws; and the memorial was read.

Ordered, That it be referred to Messrs. BINGHAM, WATSON, and GOODHUE, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act to continue in force an act concerning certain fisheries of the United States, and for the regulation and government of the fishermen employed therein, and for other purposes, as therein mentioned," was read the second time, and referred to Messrs. LANGDON, and NICHOLAS, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act to allow a drawback of duties on goods exported to New Orleans, and therein to amend the act, entitled 'An act to regulate the collection of duties on imports and tonnage,'" was read the second time, and referred to Messrs. BINGHAM, GOODHUE, WATSON, and BROWN, to consider and report thereon to the Senate.

The bill authorizing Seth Harding to locate certain lands in the Territory of the United States Northwest of the river Ohio, was read the second time, and recommitted to the original committee, further to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act declaring the assent of Congress to certain acts of the States of Maryland and Georgia," was read the second time, and ordered to the third reading.

The Senate resumed the second reading of the bill, sent from the House of Representatives, entitled "An act to extend the time of payment of bonds given for duties of impost, in certain cases;" and, after progress,

Ordered, That it be recommitted to the original committee, further to consider and report thereon to the Senate.

Mr. ROSS, from the managers at the conference on the amendments to the bill, entitled "An act in addition to an act, entitled 'An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen,'" reported that the Senate insist on their amendments.

Ordered, That the report lie for consideration.

The VICE PRESIDENT laid before the Senate a letter from Samuel Meredith, Treasurer of the United States, with his account for the War and Naval Departments, to the 31st December, 1799; which was read.

Ordered, That they lie on the table.

The Senate resumed the second reading of the bill prescribing the mode of deciding disputed elections of President and Vice President of the United States; and, after progress, adjourned.

FRIDAY, February 28.

The Senate took into consideration the report of the managers at the conference on the amendments to the bill, entitled "An act in addition to an act, entitled 'An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen.'" *Resolved*, That they do insist on their said amendments.

Mr. SCHUREMAN, from the committee, reported that they had examined and found duly enrolled the bill, entitled "An act providing for the second census or enumeration of the inhabitants of the United States."

The Senate resumed the second reading of the bill prescribing the mode of deciding disputed elections of President and Vice President of the United States; and, after debate, the further consideration thereof was postponed.

The Senate took into consideration the motion made on the 3d instant, for an amendment to the Constitution, respecting the appointment of the Chief Justice and Judges of the Supreme Court to other offices; and, after debate,

Resolved, That the consideration of the motion be postponed to Tuesday next.

A message from the House of Representatives informed the Senate that the House recede from their disagreement to the amendments of the Senate to the bill, entitled "An act in addition to an act, entitled 'An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen,'" so far as to agree to it with certain amendments and modifications.

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The Senate took into consideration their amendments, disagreed to by the House of Representatives, to the bill mentioned in the foregoing message; and

Resolved, That they do recede from so much of their amendment as is disagreed to by the House of Representatives, and agree to their amendment to the amendment of this House.

The bill sent from the House of Representatives, entitled "An act declaring the assent of Congress to certain acts of the States of Maryland and Georgia," was read the third time and referred to the original committee, further to consider and report thereon to the Senate.

Ordered, That Mr. DAYTON be added to the committee to whom was referred the bill, entitled "An act to establish a uniform system of Bankruptcy throughout the United States."

The Senate took into consideration the motion made on the 17th inst., respecting an uniformity of weights and measures; and

Resolved, That it be referred to the Secretary of the Treasury to prepare and report to this House a plan for establishing an uniformity in the weights and measures of the United States.

The Senate took into consideration the motion made on the 26th inst., relative to certain lands claimed by the United States within the State of Tennessee; and the motion being amended, was adopted, as follows:

Resolved, That a committee be appointed to inquire into the situation and extent of the vacant and unappropriated lands claimed by the United States, under the cession of the State of North Carolina, and the expediency of making provision for the disposition thereof; and that Messrs. ANDERSON, MARSHALL, and CHIPMAN, be the committee.

SATURDAY, March 1.

Mr. GOODHUE, from the committee to whom was referred the amendment to the bill, entitled "An act providing for salvage in cases of recapture," made report.

Whereupon, *Resolved*, That the Senate agree to the amendments of the House of Representatives to their amendment on the said bill.

MONDAY, March 3.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Thomas Arnold," and a bill entitled "An act to establish a general stamp office," in which bills they desire the concurrence of the Senate.

The Senate resumed the consideration of the amendment proposed to the first section of the bill prescribing the mode of deciding disputed elections of President and Vice President of the United States.

On motion to amend the amendment, which stood "draw by lot in each House, and in the following manner, eighteen members thereof," by expunging the word "eighteen," and inserting the

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word "twenty-four," it passed in the affirmative—yeas 16, nays 13, as follows:

YEAS—Messrs. Anderson, Chipman, Dayton, Foster, Goodhue, Hillhouse, Howard, Latimer, Laurance, Livermore, Paine, Read, Ross, Schureman, Tracy, and Watson.

NAYS—Messrs. Baldwin, Bingham, Bloodworth, Brown, Cocke, Franklin, Greene, Langdon, Lloyd, Marshall, Mason, Nicholas, and Pinckney.

On motion to amend the second section proposed as an amendment to the bill, by expunging these words: "reduce by lot, in the manner before prescribed, the committee above selected, to the number of six," and to insert "choose by ballot six out of the committee above selected," it passed in the affirmative—yeas 15, nays 13, as follows:

YEAS—Messrs. Bingham, Chipman, Dayton, Foster, Goodhue, Greene, Hillhouse, Latimer, Laurance, Livermore, Paine, Read, Ross, Tracy, and Watson.

NAYS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Franklin, Howard, Langdon, Lloyd, Mason, Nicholas, Pinckney, and Schureman.

On motion to agree to the amendment amended, as follows:

Section 1, lines 6, 7, and 8, strike out these words "choose by ballot in each House six members thereof, and the twelve persons thus chosen," and insert the following: "draw by lot in each House and in the following manner, twenty-four members thereof, viz: that the Secretary of the Senate shall write the names of all the Senators present, on distinct pieces of paper, of nearly equal size, and shall roll them up and place them in a box, which shall be then shaken and intermixed together; after which, the Secretary of the Senate shall draw out of the said box the said pieces of paper with the names written on them, until twenty-four names of the Senators then present shall be so drawn. He shall deliver the same to the President of the Senate, who shall open and read them aloud, and the Secretary of the Senate shall write down the names so called. The Clerk of the House of Representatives shall, on the same day, write the names of all the members of the said House present, on distinct pieces of paper, of nearly equal size, and shall roll them up and place them in a box, which shall be then shaken and intermixed together; after which, the Clerk of the House shall draw out of the said box the said pieces of paper with the names written on them, until twenty-four names of the members then present shall be drawn. He shall deliver the same to the Speaker of the House, who shall open and read them aloud, and the Clerk shall write down the names so called.

And be it further enacted, That, previous to the day preceding the second Wednesday in February of any year, the Senate and House of Representatives shall then, respectively, proceed to choose, by ballot, six out of the committee above selected."

It passed in the negative—yeas 4, nays 24, as follows:

YEAS—Messrs. Anderson, Bloodworth, Langdon, and Mason.

NAYS—Messrs. Baldwin, Bingham, Brown, Chipman, Cocke, Foster, Franklin, Goodhue, Greene, Hillhouse, Howard, Latimer, Laurance, Livermore, Lloyd, Marshall, Nicholas, Paine, Pinckney, Read, Ross, Schureman, Tracy, and Watson.

On motion, to insert in the 10th section, line 9th,

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after the word "committee," these words: "such rejection shall be founded on a concurrence of two-thirds of the committee," it passed in the negative—yeas 10, nays 19, as follows:

YEAS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Franklin, Langdon, Mason, Nicholas, and Pinckney.

NAYS—Messrs. Bingham, Chipman, Dayton, Foster, Goodhue, Greene, Gunn, Hillhouse, Howard, Latimer, Laurance, Livermore, Lloyd, Marshall, Paine, Read, Ross, Schureman, and Tracy.

And after debate the Senate adjourned.

TUESDAY, March 4.

The bill, sent from the House of Representatives, entitled "An act for the relief of Thomas Arnold," was read, and ordered to the second reading.

The bill, sent from the House of Representatives, entitled "An act to establish a general stamp office," was read, and, by unanimous consent, it was read the second time, and referred to Messrs. TRACY, NICHOLAS, and CHIPMAN, to consider and report thereon to the Senate.

On request, by Mr. PINCKNEY, he had leave to withdraw his motion, made on the 3d of February, last, for an amendment to the Constitution, respecting the appointment of the Chief Justice of the United States to any other office. He also notified the Senate, that he should to-morrow move for leave to bring in a bill further to amend the act, entitled, "An act to establish the Judicial Courts of the United States."

The Senate resumed the second reading of the bill prescribing the mode of deciding disputed elections of President and Vice President of the United States.

On motion, to amend the 8th section, line 4th, by striking out these words: "upon the Constitutional qualifications of the Electors appointed by the different States, and whether their appointment was authorized by the State Legislature or not," and to insert, in lieu thereof, these words: "whether the appointment of Electors for any State was authorized by the State Legislature or not," it passed in the negative—yeas 14, nays 15, as follows:

YEAS—Messrs. Anderson, Baldwin, Bingham, Bloodworth, Brown, Cocke, Franklin, Greene, Gunn, Langdon, Marshall, Mason, Nicholas, and Pinckney.

NAYS—Messrs. Chipman, Dayton, Foster, Goodhue, Hillhouse, Howard, Latimer, Laurance, Livermore, Lloyd, Paine, Read, Ross, Schureman, and Tracy.

And, after debate, the Senate adjourned.

WEDNESDAY, March 5.

The VICE PRESIDENT laid before the Senate a report from the Secretary for the Department of Treasury, of a general statement of goods, wares, and merchandise, imported into the United States, from the 1st of October, 1797, to the 30th of September, 1798; which was read.

Ordered, That it lie on the table.

Mr. GUNN, from the committee to whom was referred the bill, sent from the House of Represent-

atives, entitled "An act declaring the assent of Congress to certain acts of the States of Maryland and Georgia," reported an amendment; which was read.

Ordered, That it lie for consideration.

Mr. LAURANCE, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to establish a uniform system of bankruptcy throughout the United States," reported the bill without amendment.

Mr. WATSON, from the committee to whom was referred, on the 7th of February, last, the petition of Lyon Lehman, reported a bill for his relief; which was read, and ordered to a second reading.

BREACH OF PRIVILEGE.

The Senate took into consideration the motion made on the 26th of February last, that an inquiry be had relative to a publication in a newspaper called the "Aurora," on the 19th of the said month; and agreed to insert after these words: "and by what authority he published the same," line 7th, the words "as having passed the Senate."

Mr. COCKE said, he would not suffer a measure of this kind to pass through the Senate, while he had the honor of a seat in that body, without manifesting the most determined opposition. What did the gentleman mean by avoiding the general principle? did he mean to get the consent of the Senate, acting in the character of an inquest, to an acknowledgment that the editor of the Aurora had been guilty of a crime, without any inquiry whether the publication in itself was criminal, or whether if it was criminal, the Senate, as an independent and a single branch of the Legislature, had of itself the power to define the crime and inflict the punishment? He could not consent to an admission of this kind; the Constitution gave them no such authority; the privileges of the House and of the members did not extend beyond the walls of the Chamber in which they were sitting, in cases of comment upon their official proceedings. He had held these opinions from the time the motion was first laid before the House, and thought that the consequences which would result from pursuing the subject, would be more dangerous to the honor and dignity of the Senate, which it was meant to defend, than all the attacks which all the public newspapers could make during their existence, inasmuch as an actual assumption of power was far more detrimental to their character than any unfounded charge of tyranny could be. He believed that the more the subject was agitated the more would be the clamor against the Senate, and in the end they would be forced to abandon the measure for want of ability to carry it through; he therefore concluded it would be best to give it up in the first instance, and save both their own time and the public money. He would move to postpone the consideration of the motion till the first Monday in December next.

Mr. TRACY did not wish to hurry on the decision, but as the resolution had been several days upon the table, he believed the House might now decide on the propriety of referring the business

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to the Committee of Privileges, as this procedure would not be final; or, if the House was not ready to vote immediately, the discussion might proceed and time would be given for coming to the conclusion.

MR. C. PINCKNEY.—This subject involves the important questions, What are the privileges of Congress, and how far are they defined by the Constitution; and what is the liberty of the press, as it respects those privileges? These are subjects of great consequence, and such as I suppose the House will touch with much caution. My name having been mentioned in the body of the original motion I feel myself particularly called upon to deliver my sentiments fully, as well with respect to the manner in which it is mentioned, as to the limitations of the Constitution, and what ought, in my judgment, to be the conduct of the Senate, on this very interesting occasion.

In considering, first, what are the privileges of Congress, and how far they are defined by the Constitution, I am naturally led into a repetition of arguments I have found myself too frequently obliged to use on this floor; that is, to entreat the House to recollect the nature of our federal system; that all powers not expressly and specifically delegated to Congress, are reserved to the States and people; and particularly to remember, that where any powers are so expressly defined as the privileges of Congress are, that it is our duty very carefully to consider the consequences, before we take a step that may, by subsequent or cool reflection, be found to exceed them; that the privileges of Congress, as limited by the Constitution, have been very deliberately considered by men whose opinions were not swayed by party, and whose impartial situation gave the best opportunity of judging; that having before them the example of the unlimited privileges of the British Parliament, and colonial assemblies, or councils, assuming to themselves the right of such privileges; that knowing the consequences of undefined powers, and being well aware what privileges were necessary to prevent an interruption of the undisturbed situation a member should enjoy, during the time he is engaged on public affairs, after much thought they had defined them in the manner fixed by the Constitution. No man, who is a friend to order, will justify what properly deserves to be termed the licentiousness of the press. When, instead of candidly reviewing the arguments or public conduct of a member of the Legislature, or officer of the Government, it meanly descends to private scandal, instead of being defended, it should be met with contempt and disdain. Abuse is the price that public men, and frequently those of the most ability, are obliged to pay; and it is seldom, in countries where the press is free, and strong political parties are known to exist, that it is much noticed. Men of elevated minds, who feel themselves strong in the powers of reasoning, will always yield to their feeble opponents the miserable resort of abuse; it is the surest test of imbecility, and the public, who generally think right, seldom hesitate to suppose it equally the proof of weakness and of malice.

I shall consider this subject from its importance, and the peculiar manner in which it has been introduced, as open to such animadversions as are within the rules of order and are consistent with decorum. I shall probably advance doctrines that will be termed as extraordinary here, but it shall be done with the good manners I have ever considered as the criterion of good breeding, and which self-respect will forbid my violating. It is the first question respecting the privileges of the Senate that I have ever been present at, and, as it involves the liberty of the press, it is only necessary for me to mention these subjects, to show the House the propriety of our well-examining every line of the resolution on your table, before we adopt it.

I feel myself particularly called upon to give my opinion fully on this subject, because my name is inserted in the body of the resolution, and, to those unacquainted with the circumstances, it might have the appearance of being done at my request; whereas it was not only done without my knowledge, but is contrary to my wish, and opinion of the power of the House, and of the mode in which such inquiries should be conducted; that even if the House had the power, the remarks and information contained in the paper are not sufficiently important to attract its notice, particularly as they had been completely silent on the abuse of the Senate in the Gazette of the United States, respecting the stopping of the enlistments for the army; that the inquiry might lead to steps not within the defined privileges of the Senate, and that, as these may involve the liberty of the Press, and the right of a citizen to publish the debates and public acts of this House, those who were opposed to what they might consider unconstitutional restrictions, ought to meet the question at the threshold, and contest it in every stage. I shall therefore feel it peculiarly my duty to do so, and, after having stated to you my objections to any interference at all on this subject, to move the postponement of the resolution, or to amend it in some way that shall place on the journals my opinions of the extent of your privileges, and reasons for objecting to the mode of inquiry proposed by the gentleman from Connecticut.

In examining the Constitution, we find, that to prevent any attempt being made on the part of either branch of Congress, to define their own privileges, and exercise the same, as occasion or circumstances may, in their opinions, require, and to remove all doubt as to the extent and exercise of the privileges they are to enjoy, the Constitution has positively and expressly limited and defined the same, by declaring—

“That each House shall be the judge of the elections, returns, and qualifications of its own members; that they may compel the attendance of absent members, in such manner, and under such penalties, as each House may provide; that they may determine the rules of their proceedings, punish the members for disorderly behaviour, and, with the concurrence of two-thirds, expel a member. That the members of both Houses shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at

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their respective Houses, and in going to and returning from the same, and, for any debate or speech in either House, shall not be questioned in any other place."

This is all that is said on the subject of privilege; and surely no words can be more explicit, nor any subject more clearly defined. The powers they are to exercise, and the persons and cases they are to operate upon, are all distinctly marked and named; nor is there a word or a sentence in the whole that can by any possible construction be made to mean that for any libels or printed attack on the public conduct or opinions of either House of Congress, or of any of its members, that their privilege shall extend to ordering the persons charged with the offence before them, and imprisoning them at their will. The Constitution wisely determined, that they should possess all the powers necessary to their formation, and the undisturbed order of their proceedings, and the safety of their members from arrest, during their attendance, and going to, and returning from Congress; but it at the same time recollected, that it is the nature of our Government to invite examinations of public measures, that it is the duty of our citizens to make these inquiries, to watch over the proceedings of our public bodies, and if they find them departing from the Constitution, or exceeding their authority, instantly to announce it. That our Constitution supposes no man, or body of men, to be infallible, but considers them all as mere men, and subject to all the passions, and frailties, and crimes, that men generally are, and accordingly provides for the trial of such as ought to be tried, and leaves the members of the Legislature, for their proceedings, to be amenable to their constituents and to public opinion; it however particularly guards the right of the citizen to investigate their measures; and in case of a false or libellous attack, it intends, if the power of collecting juries is fairly exercised, to provide a just and impartial tribunal to decide between them, to act upon oath, and who ought not to be the particular friends or enemies of either. On this subject I shall hereafter more fully remark, and at present take some little notice of an observation that has been made, and which, with the subject of privileges, should be considered as preliminary to those that are necessary on the liberty of the press. It is, that if Congress possessed the power contemplated by this resolution, it was their duty to pass some legislative act respecting it, declaring the manner in which it should be executed, and designating the officer or officers who were to do so; that the people would then know the manner in which offenders were to be summoned or apprehended, or brought before them; but this should have been done when no particular case had occurred, and was before them, and that no proceeding of privileges in any case like the present, ought to be had until such act was passed, and the mode of proceedings clearly ascertained; that if the power was given by the Constitution, until Congress had legislated upon it, in the manner above mentioned, it was extremely improper for either branch to attempt to exercise it; that a judiciary department was erected by the Constitution, but that Congress were obliged to legislate upon

it, and detail its duties, and provide for the appointment of officers to execute them, before the powers of that department could be properly exercised; and that if Congress possessed the power some gentlemen contend for on this point, they must previously legislate on it in the same manner. On this subject there can be no doubt of the propriety of this objection, if Congress possessed the power; and their never having passed such a law is a strong proof, that whatever opinions either branch may have entertained, that both did not suppose they possessed this power, or certainly they would have legislated upon it. If they did not doubt, or were not sure they did not possess this authority, why did they not legislate on it at the time they did on all such other parts of their privileges and powers as they conceived they had authority to act on. They (that is, Congress) passed an act on the subject of the election of members of the House of Representatives, of which that House are the sole judges; each House detailed, in a particular manner, their rules and modes of proceeding—this was all that was necessary to be detailed. The remainder of the clause respecting privilege is so express on the subjects of privilege from arrest, government of members, and expulsion, that every civil officer in the United States, and every man who has the least knowledge, cannot misunderstand them. I assert, that it was the design of the Constitution, and that not only its spirit, but letter, warrant me in the assertion, that it never was intended to give Congress, or either branch, any but specified, and those very limited, privileges indeed. They well knew how oppressively the power of undefined privileges had been exercised in Great Britain, and were determined no such authority should ever be exercised here. They knew that in free countries very few privileges were necessary to the undisturbed exercise of legislative duties, and those few only they determined that Congress should possess; they never meant that the body who ought to be the purest, and the least in want of shelter from the operation of laws equally affecting all their fellow citizens, should be able to avoid them; they therefore not only intended, but did confine their privileges within the narrow limits mentioned in the Constitution. And here, sir, let me ask, are not these privileges all that are necessary? They have complete authority to keep order and decorum within their own chamber, to clear the galleries if an audience are unruly, and to punish their own members, to take care that no arrests, except for treason, felony, or breach of the peace, shall keep their members from their duty, and for all libellous attacks or misrepresentations the laws are open to them; and if unjustly attacked, no doubt the juries of their countrymen, who are interested to preserve the dignity and independence of their Legislature, will give them the most ample satisfaction. But it is said, "each branch must possess this power to punish for breach of privileges, which they must judge of as circumstances may arise and require; that every legislative body, or branch of one, possesses an inherent right to protect itself, which must be exercised as their discretion directs, because it may

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frequently be necessary to exercise it immediately, when the public safety would make it impossible to wait for reference to other bodies, or tribunals," and, "that if a man was approaching to knock you down, it would be absurd, instead of defending yourself, to deliberate whether you were authorized to do so; that you must act instantly, as the occasion demands; and that as each individual in society possesses this inherent right to protect himself, so does each branch of the Legislature." This, as far I have been able to collect, is the sum of the reasoning on this subject; and it is said to be strengthened by the practice and precedents of the British Parliament, and the Colonial Legislatures, before the Revolution, and most of the State Legislatures since, and is now universally received as the true doctrine on this subject.

That it is the doctrine and practice of the British Parliament, I will allow; but it was because the doctrines there held are utterly inadmissible in a free Government; and to prevent any influence from them, and their precedents, and the improper practice of the Colonial and State Legislatures, that this limitation of the privileges of Congress was here purposely introduced. Will any man undertake to say, that the privilege of the Parliament of Great Britain ought to be that of the Congress of this country? Do you suppose that all their members, and their property, and even their servants, should be protected from arrests during the whole time they are elected for, many of them for twenty years together, or during their lives? Would it be thought safe in this country that a small majority of a small body, or single branch of a Legislature, should claim and exercise the authority, whenever they please, to send and seize any man in your community, however important, and confine him in a loathsome dungeon, for six months together, merely because he has differed with them in politics, and criticised, as he had a right to do, on their legislative acts? Is it a pleasant sight to our citizens, to see sergeants-at-arms, with their rods, inquisitorially seizing free-men, and dragging them to your bar, and there exhibiting them as criminals, or spectacles to crowded audiences, merely because they thought they had a right to attack, by argument, proceedings which appeared to them unconstitutional? Can you have the most distant idea, that your Constitution could have intended thus forever to shut the door of inquiry, and make it so penal and dangerous to your citizens that none of them will dare to venture it? Is it possible for any man to read the Constitution with attention, and then suppose that such could have been its design? So far from being so, I do assert that great pains were taken specially to guard against the exercise of any such power, and I have no doubt that the Congress of 1798 must have been of this opinion, or else why did they pass the 2d section of the sedition law? Why did they (improperly in my opinion, because it ought to belong to the State judicials) why did they make the crime of writing, uttering, publishing, or printing any libel against the President, or either branch of Congress, triable, and punishable, in the federal courts,

if either branch possessed this power themselves? If they have the right to punish libels, or false, or malicious attacks, why include them in this act? Their power extends over the whole of the Union, and can reach any inhabitant, in any State. Is it not therefore clear, that by giving this authority to the federal judges, to try and punish for written or printed attacks on either branch of Congress, that the Congress of 1798 did not suppose, for attacks of this kind, made in the papers, there was any other mode of punishment than by a trial, where the person charged would have the benefit of trial by jury? Surely this must have been their opinion, or they would not have had two different modes of trial and punishment for the same offence. They never would have erected a new jurisdiction to include a crime, when one sufficiently strong and energetic existed already; but to prove this still more clearly, let us inquire, why the Constitution should have been so attentive to each branch of Congress, so jealous of their privileges, and have shewn so little to the President of the United States in this respect. Why should the individual members of either branch, or either branch itself, have more privileges than him? He is himself, as far as his qualified negative goes, a branch of the Legislature; he is, besides, your Executive, he is the sword of the law, and does he possess any privileges like these? If a man meets him walking alone in the streets and insults him, or if one of ruffian manners should enter his house, and even abuse him there, has your President any privileges like these? Can he commit and imprison without a trial? No sir, he must resort to the laws for satisfaction, where the person charged with the outrage will be heard, and where each party will have justice done them, by men who ought to be so impartially summoned as that no undue bias will be found when they come to decide. No privilege of this kind was intended for your Executive, nor any except that which I have mentioned for your Legislature. The Convention which formed the Constitution well knew that this was an important point, and no subject had been more abused than privilege. They therefore determined to set the example, in merely limiting privilege to what was necessary, and no more. Look into the constitutions of all the States, which have been formed since the Federal Constitution, and see if they have not done the same. The Constitution of South Carolina is remarkably explicit and limited on this subject: It says, "that each House may punish by imprisonment, during its sitting, any person not a member, 'who shall be guilty of disrespect to the House, by 'any disorderly or contemptuous behaviour in its 'presence, or who, during the time of its sitting, 'shall threaten harm to the body or estate of any 'member, for anything said in either House; or 'who shall assault any of them therefor; or who 'shall assault or arrest any witness or other person, 'ordered to attend the House, in his going to or returning therefrom; or who shall rescue any person arrested by order of the House.'" These are all privileges, except privilege from arrest or seiz-

ure of estate, mentioned in that constitution; and the slightest inspection at once shows, that except for disrespect or contemptuous conduct, in its presence, or threatening or assaulting a member for his conduct in the House, that no other authority is given to punish—not a word is said about libels, or attacks by writing or printing, on their conduct. It is well known that our Constitution intended the press to be free; to be the means of communicating the acts of the Government, and of commenting on them where necessary; that it supposes that majorities will sometimes exist, who may wish to overstep the boundaries they ought not to pass; and, therefore it provides for them, in the hands of the people, this wholesome correction of the press, which those who resort to must use at their peril. If they use it properly, animadvert with propriety, and really point out defects or usurpations in the Government, the people will applaud their zeal, and the laws will support them in their exertions; but if they falsely or maliciously misrepresent, the law will become the avenger of the Government, and unprejudiced juries be the means of punishing calumniators. This is the true footing upon which legislative privilege should be put in every Government, and it is the one on which it is now placed in the United States. By this you give sufficient power to punish, for any improper thing done in their presence, which may disturb the order of either House, or violate the decorum of their proceedings; and for any supposed slanderous attack, the tenderness with which you ought to touch the Constitutional right of the public to inquire into public affairs, and the delicate subject of trial by jury, will always necessarily oblige you to recur to the latter for redress and satisfaction.

If it was proper, on subjects like this, to refer to British precedents, I could mention a recent one, which is exactly in point; and shows, that even in the English House of Commons, the doctrine I contend for prevails; it is, that in all cases of libels against either House, the remedy must be by prosecution by the Attorney General, and trial by jury. In Stockdale's case, Doctor Logan published charges against the House of Commons, in which he stated, in a variety of ways, that they had been guilty of great cruelty to Mr. Hastings. Mr. Pitt and Mr. Fox, and all sides of the House, agreed that it was a libel; but, instead of ordering him before the House, they entered into resolutions directing the Attorney General to prosecute. It appears to me so clear, that for all libels or attacks on either branch of the Legislature, in writing or in print, the mode must be by prosecution, that I do not know it is necessary to trouble you at this time with any further reasoning on that head; I will therefore only mention one more, and then conclude this part of my subject: it is, that from the nature of our Government, where our President is elective, and obliged to attend to public opinion, even if he wishes to do so, he will never venture on those bold measures, which hereditary Executives sometimes attempt. If, then, there should be some men, whose political talents he is afraid of, or whose inquiries into his administra-

tion give him uneasiness, an Executive, instead of venturing on any such measure himself, if he can obtain a majority in either branch, will easily discover some mode of having this man's political inquiries construed into breaches of privilege; and, under cover of his friends' influence, immure and silence, during a whole session, and for half a year, a man, whose arguments were perhaps unanswerable, and whose system may be the one which your councils may the next year adopt. I am far from supposing that we are yet so much advanced in the arts and intrigues of older Governments as to make this probable at present; it is not however impossible, and must be guarded against.

The next question is, that of the liberty of the press, as applying to these defined privileges; and as it is the first time this sacred subject has been before either House on a question of privilege, I shall expect your indulgence in making some remarks on it. I shall be very short; for however fruitful the subject is, yet so much has been said of it elsewhere, and you must be so well acquainted with it, that it will be necessary for me barely to state some general principles, as they apply to the question before you. I feel a pride in saying that in no country has the press ever been as free as in United America; however clouded or interrupted this freedom has, in my opinion, lately been. I entertain a hope that in a few months all its shackles will be removed, and that the emotions they have occasioned in the public mind will for ever forbid its being thus fettered again. To no subject have I ever more carefully applied, than what ought in a well regulated Government to be the freedom of the press. I well know that where the press is not free, liberty is but a name, and Government a mockery. I have therefore endeavored to form, in my own mind, what ought to be the true standard of the freedom of the press with us; and I have no doubt that it consists in this: That the printing press shall be free to every person who undertakes to examine the proceedings of the Legislature, or any branch of the Government, and no law shall ever be made to restrain the right thereof; that the free communication of thoughts and opinions is one of the most invaluable rights of man; and every citizen may freely speak, write, and print, on any subject, being responsible for the abuse of that liberty; that in prosecutions for the publication of papers investigating the official conduct of officers, or men in a public capacity, or where the matter published is proper for public information, the truth thereof may be given in evidence; and in all indictments for libels the *Jury* shall have a right to determine the law, and the fact, under the direction of the court, as in other cases. This is the situation in which the Constitution of Pennsylvania has placed the press; and it is the true and safe one, upon which it ought to be placed in every free Government. Here the right to investigate the conduct of the Legislature, and of official men, is not only recognised and established, but the Constitution seems to require it as a duty, from the citizens. It says to them, these are men periodically delegated by you to manage your public concerns—to you, and you alone, they

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are accountable for their conduct; nor can you know whether it is meritorious, or otherwise, but by having the right to examine into it, and by freely and frequently exercising that right. And would it not be the strangest thing in the world, when the Constitution not only establishes the right, but calls upon the citizens to exercise it with alertness, and by no means to neglect it, that if they should happen to displease a branch of the Legislature, whose conduct they have censured, that they should be delivered immediately into the power of this branch, to be dealt with as they please; that the men they had accused, and whom they had, by the Constitution, a right to accuse, should become their judges? Would not this be a most extraordinary doctrine? Would it not involve an inconsistency, that ought not certainly to be chargeable upon the framers of the Constitution? In private cases of slander, or defamation, would you suffer the person abused, or any near connexion of his, or person interested in the event of the suit, to be on the jury? Certainly not. How much more glaringly improper then would it be, in cases of a public nature, where the acts of a legislative branch are censured, and where the charge has been openly and honorably brought forward, to commit the person who produced it, at once, to the power of the body whose acts he has condemned! Let us suppose, that in the exercise of this invaluable right, some disinterested and independent man, urged by the most honorable and patriotic motives, should conceive a branch of the Legislature overstepping the bounds of the Constitution, and going into measures destructive of our rights, or injurious to our interests; that this man should be an important member of your community, of known integrity and independence of situation and character, that he should have no private ends of his own to answer, or anything in view but the public good; that he has embarked in the investigation at the entreaty of a numerous and respectable part of the community, who wished the public mind to be so fairly and fully possessed of facts, and reasonings on them, as to be able, at the next election, to determine with precision and fairness on the conduct of their Legislature; under these circumstances would it be proper to deliver this man into the power of a body whom he has charged with misbehaviour, or a departure from Constitutional principles? Or would it not be more fair, would it not wear more the appearance of impartiality in case an examination was necessary into the nature of his charges, or the manner in which he has made them, and the expressions he has used, to have a distinct and unprejudiced body, a jury acting under oath, to decide between them? As far as I know anything of the principles of natural justice, I should suppose there was no question on the subject, and no other opinion ought to be entertained, and that without it there can be no such liberty of the press, or freedom of inquiry, as the Constitution intends.

And here, sir, let it be asked, why should a Government that means well, or is confident in its uprightness and ability, ever fear the press? It should be to them a source of great pleasure, in reflecting that they had so excellent a mode of diffusing a

knowledge of their acts, well knowing, if they were unjustly attacked, it gave them the most ample means of defence; and that if it became immoderate and licentious, the laws were always sufficiently energetic to punish it. How many individuals when attacked or slandered, have rejoiced that such a defence has been afforded them; and how indispensable is its free investigation to the removal of doubts which sometimes crowd about the characters of public bodies, or men, and which it is necessary to remove! Public bodies are public property; and so indeed are public men, who have in any degree rendered themselves conspicuous by their exertions: few of these, if ever there was one, can expect to be without personal enemies; these will be in proportion to the talents of the man they dislike, and his consequence with the people. Men who engage in public life, or are members of legislative bodies, must expect to be exposed to anonymous, and sometimes avowed, attacks, on their principles and opinions. Their best shield will be an upright and able conduct. The best informed will sometimes err; but when their intentions are pure, an enlightened nation will easily discover it, and pardon the mistake. With the shield of conscious rectitude, a Government can never dread the press. It is only in States where the happiness of the people is not the end of Government, or where an individual or a few possess the whole authority, that the press is not agreeable to them. Hence, in despotisms, it is generally odious to the sovereign, and strictly limited. We have, however, found even among them, a latitude which proves that in the most despotic countries, where the sovereign is conscious of using his power for the good of the people, he fears not the slanders of the malicious. It is remarked of Frederic of Prussia, that few princes were more libelled by his subjects; but that in no country were libels more disregarded: that few, if any, instances ever occurred of his endeavoring to discover the authors, or to crush by punishment, the spirit of inquiry which literary pursuits had diffused among his subjects. A more remarkable instance is, that of the Empress of Russia; in giving her directions respecting libels, she says, "great care ought to be taken how we extend this crime; representing to ourselves the danger of debasing the human mind by restraint and oppression, which can produce nothing but ignorance, and must cramp and depress the rising effects of genius." I did not expect to have been obliged ever to have introduced on this floor, Frederic or the Empress, as examples on the subject of the press. The love of liberty, or a wish to countenance the spirit of political inquiry, were not certainly among the reasons for allowing this latitude; but they at once discovered, that if they wished to govern an enlightened people, the spirit of inquiry must be unshackled, and an extensive range given to literary productions. Among the ancients we find Tiberius, and Trajan, and Titus, allowing absolute liberty of speech and writing, suppressing the laws against seditious words and writings, and punishing informers. But the most remarkable instances we have, that freedom of

speech and writing are essential to the liberty and greatness of a people, are those of Athens and Rome, when republics: in speaking of them, a celebrated writer says, "that democracy is the nurse of genius, and the greatest encourager of sublimity." The fact is evident from these republics. In Greece, Athens was most democratical, and a state of the greatest liberty; and hence it was, according to Paterculus, "that eloquence flourished in greater force and plenty in that city alone than in all Greece besides; insomuch (says he) although the bodies of the people were dispersed into other cities, yet you would think their souls and their genius to have been pent up within the precincts of Athens." So the city of Rome was not only the seat of liberty and empire, but of true wit and exalted genius. The Roman power outlived, it is true, for a considerable time, its liberty, but the freedom of speech and writing was gone, and wit and genius could not long survive them.

How applicable, sir, are these instances, and how incumbent on us is it, if we mean to keep this country a Republic, to cherish the freedom of the press, to remember that without it seldom any thing great or noble can be produced, that to shackle it is to chain the mind, and stifle the seeds of everything that is generous and amiable! That, in the words of a celebrated divine, "reason and freedom are our own, and given to continue so; we are to use, but cannot resign them, without rebelling against Him who gave them; that to invade them is to encroach on the privileges we receive from God, and traverse the designs of Infinite Goodness." We should remember the danger of precedents, and be careful, as this is the first discussion we have had on this subject, not to establish improper ones, or lay a foundation for that debasement of the mind, which always follows the depression of the press.

It is important here to remind you, of the anxiety of the State Legislatures in insisting upon the doors of the Senate being thrown open, and their legislative proceedings exposed, like the other branch, to public view. It was done unquestionably with the intent, that minutes of your debates should be taken, and all your proceedings subject to the inspection of such of our citizens as choose to attend; but as from the distance, very few of the States could have citizens attending, the great object certainly must have been to have notes taken of the debates, and printed in the gazettes; that through that channel information may be transmitted to every part of the Union, and thus the States become, in the best manner they are able, judges of the talents, as well as conduct and opinions of their members. That this is of infinite importance, in a representative government, no man will deny; but if a printer is to be seized, and dragged to your bar, and perhaps imprisoned for a mistake, that a law has passed when it is only its second reading, or that a member of a committee was not summoned to attend the meeting of the committee, when he was, and did attend, or for any mistake of this kind, I ask you what printer or reporter will take your debates? Who will

venture on it; because, where will you draw the line? Will you require that each reporter shall give every word and observation with exactness, and that the smallest deviation from what was said on the orders or proceedings of the House, shall subject him to the odium, and perhaps expense, of a trial at your bar, which must accrue if he has counsel? If this is the case, no reporter will certainly attempt to take your debates, and your doors may just as well be shut again. But, say gentlemen, it is not only for those assertions which you have mentioned, but for the preceding and accompanying observations respecting the views and proceedings of the Senate, and of the members of that body in their official capacity, for which we think this examination requisite. I have already said, in the commencement of my argument, that no man can justify the licentiousness of the press, and that it is perhaps to be lamented that so much invective is used in the papers on both sides of the question; but that as most of these observations are on things that did not happen in the Senate room, and many of them are stated to have occurred near two years ago, and that as much more violent abuse against the Senate was published in the Federal paper styled the *Gazette of the United States*, on the 13th day of February, and no notice has been taken of it, that it was best, upon this occasion, to suffer the present to pass unnoticed likewise: that it is astonishing the honorable mover from Connecticut, who seems to feel so much for the dignity and character of the Senate on this occasion, did not, on that of the abuse which was heaped on it for consenting to stop the enlistment for the army, have similar feelings; and that as he consented to suffer those animadversions to pass, it would certainly be doing no great violence to his feelings to deal with the present in the same way: that perhaps the best mode to lessen the importance of a paper was, not to treat its observations with either too much notice or severity; that in politics, as in religion, persecution seldom made converts; that if I ever had the inclination to raise the importance of a press, and bring it into celebrity and notice, I would wish it persecuted, for I never saw a press in a free Government persecuted but it rose immediately. Attack a press for its political publications, you instantly convince the people that it is dreaded, and must be of great importance, and attract their attention. We can never forget the memorable cases of *Sacheverell* and *Wilkes*, or how much the English nation was agitated by them, and we ought to be convinced, that in every country having the least semblance of freedom, the same consequences will always flow from the same measures.

I request of you again to consider the importance of the question, how far, in the case of libels, or attacks in the papers, for their political opinions, any single branch ought to possess the power, perhaps in a moment of passion and resentment, to decide on what is to affect the personal liberty of a citizen? Whether it is consistent with the nature of our Government, that a single branch, without check or control, should become judges in their own case? Whether any citizen charged

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with a crime, for which he may be punished by the temporary loss of liberty, is not entitled, by the Constitution, to "a speedy trial by an impartial jury?" And, whether to deny it, in this instance, would not be to interfere with that provision of the Constitution? For my own part, I have no doubt of it; and, feeling as I always do, most jealous for the character of this branch, I am apprehensive, should we proceed in this measure, it may occasion unpleasant observations. Some of its enemies may perhaps say, that no power is so arbitrary as that of the unlimited authority of a single branch, acting in its own cause, revenging its own affronts, and deciding, perhaps more by its own passions and feelings, than by the justice of the case: that a power of this kind, is worse than a despotism; because there the despot is in some measure checked by his individual responsibility; for the act being the official act of the body, is that sort of protection under which an individual despot cannot shelter himself from the public odium—should the measure be oppressive, he must alone meet the general censure, which thus concentrated, strikes with force; but when divided among a number, must in a great measure lose its effect. That, in every view of the subject, we must be convinced that for libels, or printed attacks, on either branch, the Constitution must have intended to give the person charged the right of trial by a jury, so collected that a cool and unprejudiced examination might take place, and justice be done to all parties; that this I had shewn to be the case, in the instance I had mentioned, in the House of Commons of Great Britain; and we surely would not wish the press should be more free, or the freedom of inquiry into legislative conduct more unshackled in England than with us. Look sir, into the abuse that is daily poured by the papers of that country, upon their Parliament and Administration, and upon Mr. Pitt and Mr. Fox, and all their leading members; and yet we see no proceedings of this kind. Indeed if we were to believe Montesquieu, and the writers since him, it is to the freedom of the press alone, England owes the portion of liberty she enjoys—it is the ladder by which she rose, and that which she will struggle most to preserve. I devoutly hope she will always keep it, and that we shall likewise maintain it for ever in its utmost purity.

If we proceed in this business to the length it may go, that is, to issue the warrant to apprehend and confine, where, sir, is the power given to this branch to issue the warrant, and to appoint an officer to execute it; and in case he is unable to do so, to order the civil officers of the United States to aid him? I see no such power, nor do I believe any such is to be found in the Constitution. But may not another difficulty arise, and that is, if the editor is apprehended, and applies to a Judge, either of the United States, or the State in which you sit, for a habeas corpus, to examine into the nature of the commitment, and the Judge should be of opinion that you have no right to commit for such an offence, and that your remedy must be by prosecution, and discharge the editor, what then is to be done? Will you commit the Judge for doing his

duty, and deciding according to the Constitution, and his oath to preserve it? And if a State Judge should discharge him, and the State should be of opinion their Judge had done his duty, and ought to be supported in it, will you suppose the present publication sufficiently important to give rise to a conflict of jarring opinions between the United States and the State, and to disturb the harmony which at present so happily prevails? If one or two of their Judges may have held an opinion in England, that a Judge cannot discharge on a habeas corpus a man, however improperly committed, on a charge of breach of privilege, the solemn opinion of the British House of Lords, delivered in the famous case of Ashby and White, goes unquestionably to fix the point, that a Judge can discharge on a habeas corpus, any man illegally or improperly committed, although by either branch of Parliament.

Upon the whole of this question, which I consider as extremely important to the liberties of our common country, I am to entreat that the House will well consider every step before they proceed. To adopt the motion before you, is to pledge the House to proceed in a business of great difficulty, and to give a wound to the freedom of the press which it may not easily recover. Remember, sir, it is a blessing guaranteed to your whole nation by the Constitution; and that if a few men should at any time be so imprudent as to injure the cause they wish to abet, that ought never to be a reason for depriving a whole people of their dearest right—a right without which, in its full, unshackled, and Constitutional sense, I repeat, that liberty is but a name, and Government a mockery; that the press is to a free people, the tree of the knowledge of good and evil; that it is the only mode through which truth can be conveyed to magistrates and rulers, who will frequently find things written, that their friends did not dare to advise them. I trust that before we proceed to the extremities I apprehend, that all means of gentleness will be first tried. Terror can always be applied to, but never without danger; for if it fails once, it produces disrespect ever after.

I have endeavored to give these subjects the deliberate examination they appeared to me to require; nor can any much more important to your citizens, be agitated within these walls. They not only include the privileges of Congress, and the freedom of the press—questions of very great consequence in themselves—but the all-important one of the extent of the right of trial by jury, possessed by your citizens, in the case of written or printed observations on the conduct of the Legislature, or any branch of it, and the Constitutional right they have to make such observations. Their magnitude will, I hope, easily excuse me for the time I have taken. It was to guard the privileges of our citizens, and to secure the great palladium of our liberties, the freedom of the press, that I have made these remarks. The Constitution has declared, that its freedom shall not be abridged; and that it shall not, it is our duty to take care that no question respecting it shall ever be determined without the intervention of a jury. It is difficult

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perhaps, in preserving its privileges, to guard against its licentiousness; but it is infinitely better that some instances of this sort should arise, than that a particle of its freedom should be lost. Considering, as I always have done, the freedom of the press as amongst the greatest of our public blessings, while I almost adore its good qualities, I am content to throw a veil over its defects. Few men have been for some time, attacked in the papers with more acrimony than myself; but as I know it is impossible to touch the freedom of the press without destroying it, and as I believe it to be the only true means of preserving rational liberty in the world, I trust that our country, which has received such important benefits from its operations, will never cease to cherish and protect it. I hope it will be our boast, as I know it will be our interest, while other nations are endeavoring to fetter and destroy, to guard it as a sacred trust received from our ancestors, and to deliver it, with its rights undiminished, to those who are to succeed us.

For these reasons I am decidedly opposed to the motion of the gentleman from Connecticut; and move such an amendment, as will record my opinion on this subject, on the Journals.

Mr. P. here read the following:

"Whereas the Constitution of the United States has expressly declared 'That the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people;' and whereas, to prevent any attempt being made on the part of either branch of Congress to define their own privileges, and exercise the same as occasion or circumstances may, in their opinion, require, and to remove all doubt as to the extent and exercise of the privileges they are to enjoy, the Constitution has positively and expressly limited and defined the same, by declaring that each House shall be the judge of the elections, returns and qualifications of its own members; that they may compel the attendance of absent members, in such manner, and under such penalties as each House may provide; that they may determine the rules of their proceedings, punish the members for disorderly behaviour, and, with the concurrence of two thirds, expel a member; that the members of both Houses shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the attendance at their session of their respective houses, and in going to and returning from the same, and for any debate or speech in either House, shall not be questioned in any other place:

"Therefore, resolved, That as the Constitution of the United States does not vest in either branch of Congress any other powers on the subject of privilege than those mentioned and limited and defined therein, therefore to assume any other privilege would be to diminish the rights of the people, expressly reserved to them by the Constitution; to encroach on the powers given to the judiciary; to disparage the right of trial by jury, and to establish the dangerous doctrine that a single branch, without control or interference, can at their own will, and in their own case, punish for reasons on which the Constitution has given to them no power to decide."

Mr. P. concluded by adding, that if the Senate went into a consideration of his motion, instead

of that of the gentleman from Connecticut, (Mr. TRACY,) they would probably avoid that part of the discussion which would be least agreeable, as the subject would be clear from that locality and personality which attached to the first, and a decision would take place without any reference to this or that particular printer; but if the gentleman would postpone the question, Mr. P. consented to let his motion lie on the table, with a view to its being printed for the use of the members, that so both propositions might be compared and considered with more attention than could be done in any other way.

Mr. COCKE declared that the object which he had in view was nothing more nor less than to rid the House of the business altogether. He was not inclined to appoint any special time for the discussion, as the worthy gentleman from South Carolina (Mr. PINCKNEY) had requested. He had no idea that it was supposed he had the saving or exoneration of any printer in view; he had no such thing; but he wished to save the reputation of this body, which he thought was placed in jeopardy by the Connecticut motion. Here it is proposed to inquire and examine of and into, this, that, and the other—to bring one printer here, and generally all persons and papers, who and whatever, just as your committee may think fit. Suppose this power is doubted? Suppose the persons deny your power—how are your committee to enforce their mandates? Suppose your courts of law claim cognizance as a case of libel, are you to have two prosecutions and two trials for the same offence? Surely, surely, your committee will have to retire from the untenable ground, and the defeat will recoil with disgrace upon those of us who attempt to assume powers neither Constitutional in themselves, nor just, even if they were Constitutional. You can call upon somebody—but who?—to inquire who is the editor of the *Aurora*. You are to inquire how he became possessed of a certain bill which he published; what kind of an inquiry is this? How he procured the sight of a bill, while it was pending in Senate. Why, is there any crime in printing a minute of our transactions? Your bills are printed by your own order, for your use, and for the information of the other House; two hundred copies or more are circulated without any injunction of secrecy; they are sent off into every State of the Union; and are you going to make inquiry how the editor of the *Aurora* got to see one of them? Why, are not your gallery doors open, and cannot a bill which has been read in public be possibly remembered, at least, cannot it be taken down in short-hand? and will you punish every man who shall repeat, print, or publish what is made public on this floor? Suppose the editor of the *Aurora* declines to inform your committee of the mode through which he obtains his information; he says it is convenient and useful to him, but his prior engagements do not permit him to divulge it to you; will you punish him for contempt? But suppose you possessed of the physical power necessary to procure the information you require by an application of the torture; while you are straining his muscles

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and dislocating his joints, what becomes of the grand palladium of American freedom? Where is the liberty of the press, which is secured to the citizens of the Union against Federal usurpation? The Constitution declares that you shall not infringe upon the liberty of the press; and a power expressly denied to the whole Government, a single branch may not assume.

Here Mr. C., was called to order by

Mr. BINGHAM, of Pennsylvania, who inquired what the liberty of the press had to do on a question of postponement? He believed, while the motion for postponement was under consideration, all debate on the merits of the main question to be out of order.

It was contended to be in order to object on a postponement generally to the original motion, for an argument tending to defeat the original motion is reason for a general postponement.

Mr. COCKE proceeded, and said he was glad to find that the freedom of debate in this House was not to be destroyed, though it might be interrupted; and he hoped that the freedom of the press would never be subverted while the Government of the country rested upon the Republican principle of representation. He admitted there were a great many ill-natured things said by many of our American presses, but that should never induce him to run the risk of destroying the most valuable and effectual bulwark for maintaining us free and independent, by using an instrument more fit to cut down the trunk of a tree, than to prune it of its tendrils luxuriances. What was the engine now brought out against this freedom—an engine possessed of all the powers, necessary to insure its success? A printer is to be charged, is to be tried, judged of, and executed, by a body he has offended. Where, will you find men of nerve that will risk certain ruin? Such may arise when the press is in danger. It was under these impressions that he wished to get rid of the business altogether.

Mr. TRACY, of Connecticut, did not wish to press the business; indeed his conduct had manifested this intention, for the original motion had been suffered to lie on the table a longer term than usual before it was called up, but even now when it was called up he did not wish to hurry it through. He should not refuse a moderate delay, but he hoped the motion from Tennessee would not prevail, as it went to destroy the object without any further consideration. In answer to what fell from the gentleman from Tennessee, he would say, that the objections he had made did not all of them apply, and if there was any which did apply, amendments could be made so as to conform them to the sense of the Senate. He wished gentlemen would attend to the words of the resolution, and they would find that they did not carry them beyond what was prudent, mild, and proper. The committee are desired to inquire who is the editor of the *Aurora*; this will appear to be a proper inquiry, for the person is not publicly known: the imprint declares the paper to be published for the heirs of Benjamin Franklin Bache, but we do not know who are the heirs. The gentleman has told us it is no crime to publish the doings of this body;

agreed, but is it nothing to publish untruths respecting the official conduct of the members of this body? is it no crime to publish a bill while before this House? But are printers at liberty to tell lies about our transactions? The *Aurora* says, that the bill which it published had passed the Senate; this every member knows to be contrary to the fact. The bill has not even to the present moment passed this body, it is still on your table liable to recommitment, amendment, or rejection. Asking the editor how he came to print this falsehood, does not go to examine into the private mode by which conveyance of intelligence is made to that office; there can be no real intelligence, it being a falsehood. But suppose we have no power over this editor, because the press is free, suppose we cannot punish him for his slander, calumny, and falsehood, perhaps the inquiry may lead us to discover some person whom we can punish; will it be said that the Constitution is an impediment in our way to punish one of our own members, if he should be found guilty of abusing the confidence of his situation? At least we can exercise the power of removing one of our officers, if we should convict him of a secret league to transmit intelligence which is confidentially entrusted to his care.

He did not mean to insinuate that any improper mode was used in conveying this intelligence; it might appear that the whole circumstance was a mere unintentional error, if so he should not go farther; but yet the printer could hardly have made the subsequent mistake in relation to the gentleman from South Carolina, in declaring that he had never been consulted by the committee on Mr. Ross's bill; there was something in this calculated to produce an effect upon the public mind. He insinuates that the business of the Senate is done in caucuses, into which the gentleman was not permitted to enter; for if he had, it is supposed he might have detected and defeated the mischiefs which are working against the public welfare. This is an abandoned slander, as is well known to every member of the House, for Mr. PINCKNEY did attend not one meeting only, as the editor of the *Aurora* squeezed out some days subsequent to his first licentious publication, but he did attend every meeting, as he has candidly and honorably avowed in his place.

The gentlemen had declared themselves the champions of the press; but surely gentlemen will not advocate such liberty as this—the liberty of publishing nothing but lies and falsehood. If by the liberty of the press is meant the publication of truth and just political information, it was proper to be supported; but he was desirous of maintaining, along with the liberty of the press, the liberty of the citizens, and the security of the Government; he was not for sacrificing these latter objects to the licentiousness of the press. He was not inclined to enter into a newspaper controversy to maintain the dignity and reputation of the Senate, nor did he think that gentlemen appreciated their own standing in society when they referred the individual members of this body to such a mode of defence against the shafts of calumny

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which a daring editor might hurl against them individually.

He believed that it was as requisite to maintain the privileges of the Senate as it was to support the liberty of the press; the Constitution secured the first as well as the last; and it became important in considering the subject in this point to ascertain the extent of the privilege on the present occasion. The Constitution declares several privileges to belong to the members of Congress, and these privileges are given in order to secure the execution of the public duties which are enjoined upon us; it is for the interest of the people, and not for our own peculiar advantage, that we enjoy these privileges, it is then proper that we should on their account maintain them; but, in defining what may be privilege, we must govern ourselves according to the original intention, which is the promotion of the general interests of the citizens, and here we can be guided only by sound discretion and common sense. In this point of view the subject becomes truly important. Will any gentleman contend that our privileges are restrained to this Chamber? No. Are there no other methods by which our deliberations may be interrupted? Certainly there are. Of course, then, our authority must extend to remedy the evil wherever we may meet it, or otherwise our authority is inadequate to protect itself. On the principle of self-preservation, which results to every public body of necessity and from the nature of the case, the right of self-preservation is vested in the Senate of the United States, as it is in your courts of justice and other public institutions. Suppose a printer was to say that one of the judges had received a bribe in a certain case, would not the court be competent to call him before them and punish him for the slander, if it was one? And shall a printer insinuate that members of this body are guilty of a similar crime, and they have no mode of giving redress? Is it not of as much importance that the laws be dictated from pure motives, as that they be executed from pure motives? If it is admitted that we have the right of protecting ourselves within these walls, from attacks made on us in our presence, it follows of course that we are not to be slandered and questioned elsewhere. Will gentlemen deny this? then there is no complete remedy; for the defamation and calumny of yesterday, circulated in the newspapers, out-travel the slow and tardy steps of truth; they have spread over the face of the country and entered every cottage, where the contradiction may never penetrate. Or shall the foul aspersions of an editor circulate till you can send to the attorney general to issue a writ, to the marshal to serve it, to the court and jury to bring it, before the contradiction can be published? This also would defeat the object. The Senate, being so long suspected, must have received a deep wound, and some of its members may have to be amputated before a right understanding is acquired.

Mr. T. concluded with reiterating the idea that he did not mean to punish for publishing the transactions which took place in Senate, but to prevent misrepresentation and abuse; he did not wish the

punishment to be cruel or severe, but as mild and lenient as the case would admit.

Mr. BLOODWORTH, of North Carolina, doubted the power of the Senate to take cognizance of the conduct of members in communicating with their constituents, much less to punish them for publishing circumstances respecting which no injunction of secrecy had been imposed. He, however, assured the Senate that he had not given the editor of the *Aurora* any information on the subject before them, or indeed on any other, for the editor was a stranger to him; nor did he know that he ever called at that printing office more than once or twice in his life. He hoped that the business would be postponed for the present, and he should have no objection to its being taken up at a future day, when gentlemen might be better prepared to meet it.

Mr. PAINE, of Vermont, declared himself against the postponement, nor did he think that the motion of Mr. PINCKNEY was so inconsistent with the motion before the House as to render a postponement necessary; he thought the committee might inquire, and although the gentleman would stop, by his proposition, from proceeding in case it turned out to be a fabrication of the editor of the *Aurora*, yet if it should be found not a fabrication of his, but that of a member or an officer of the House, it was admitted they might progress, without infringing the sacred liberty of the press. Suppose that some person in the gallery should have furnished this spurious matter—and that may possibly be the case—will the sacred liberty of the press be violated if we order the doorkeeper to turn him out, and refuse him access in future? He thought the resolutions might be amended so as to give greater satisfaction than they do at present; for his own part he was not willing to declare all at present which they contained. He thought the business would be simplified if the committee were directed to consider and report what measures would be proper to adopt in respect to a publication containing various untruths of the proceedings of the Senate, and if the question of postponement was lost he meant to move several amendments for that purpose.

Mr. MASON, of Virginia, had no objection to meet the question at the present moment, but he thought it of such importance, both to the Senate and the citizens of the United States, that it should be taken up and discussed in a solemn and serious manner; not hastily and lightly, as some gentlemen seemed to think who were opposed to the postponement for a few days: if, however, the opposition to the postponement was persisted in, he had no doubt but the subject would prove itself well worth a discussion of several days, and that the ultimate decision would not be made till a period more remote than that moved for by his friend from South Carolina. He therefore recommended to gentlemen to explore well the ground which the motion of the gentleman from Connecticut had taken, and consider seriously of the consequences to which they would be led in pursuing their object. What was to be the course of their proceeding? What were the embarrassments likely to arise therein?

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He called the House to view the delicacy of the situation in which they would be involved while defining their newly discovered privileges and subverting the old acknowledged privileges of the liberty of the press; he said the delicacy of their situation, because he considered it a delicate one, for he was far from believing that the privileges of the Senate were as unlimited as the gentleman from Connecticut contended they were; if so, and they proceed to touch the liberty of the press, which they may discover in the end to be secured against the invasion, they will be compelled to retrace every step they are now taking, which will neither redound to their honor nor discernment. They should be careful how they expose themselves to popular scrutiny in cases respecting their own power, for the public mind had been already considerably agitated, at what many conceived to be an unconstitutional exercise of power. If, session after session, attempts were made to fetter the freedom of the press, the people of the United States would watch with anxious regard every movement of this body. A measure which originated in the Senate, and was subsequently acceded to by the other branch of the Legislature, had been just ground of alarm. It is no wonder that they watch our bills as well as our laws, for it must be recollected by many of the gentlemen who hear me, that the bill called the Sedition Bill was first introduced here, and that, instead of being what it afterwards became, it was a bill more particularly to define treason and sedition. The good sense of the House, during the time it was upon the table and undergoing a political dissection, cut off from it many of those monstrous excrescences which at first disfigured it, and at last trimmed it into a shapely form; but after all it was removed below stairs in a condition not fit to meet the eye of our constituents—even obliged to undergo a decapitation; the head or the title of it was struck off, and instead of being a bill defining treason—which is a thing totally out of our power, the Constitution having declared in what alone treason should consist—instead of being denominated a bill against sedition, it took the obnoxious head of being a bill to amend the law for punishing certain crimes against the United States.

Nor, said Mr. M., do I think gentlemen do themselves much honor in the declarations they make on this floor, respecting the publication of the bill for deciding the disputes in the election of a President and Vice President; they seem to consider the publication of such a bill with a declaration of its having passed the Senate as a scandal on the Senate. Well, it might perhaps be a subject of scandal as to the Senate, if they had passed it; but is not this charging the committee who reported it, with reporting a bill which it would be a scandal perhaps to advocate but certainly a scandal to pass? According to this construction of the argument, the gentlemen certainly cast as gross a censure upon the committee who reported a bill which is unfit to be acted upon, as the publication is supposed to cast on the House for having agreed to it. With respect to the measures which are pursued and pursuing, is it unknown to the members on

this floor what effects they are producing; do they not know that the sedition bill as it is called, and which the present motion may be considered as supplementary to, has created a general alarm not only among our citizens, but in several of our State Legislatures? Will not this measure increase that alarm? Or is it supposed that you may call upon a printer and that he will answer, not knowing that by the Constitution no man can be called upon to give evidence against himself in criminal cases? He concluded with the remark that he did not mean to go into the subject fully, because the question before the House was confined to the postponement; but, if the postponement was refused, he should take the liberty of adding some further observations to enforce the ideas contained in the motion brought forward by his worthy friend from South Carolina.

Mr. COCKE wished that gentlemen who were of the same sentiments with himself would acquiesce in his motion for throwing out the subject at once, so that they might hear no more of it. He was well convinced that the House had no powers to legislate in relation to publications in newspapers, notwithstanding all that the gentleman from Connecticut had said. It had been asked where the Senate had got the power, and it is replied, they got it by a necessary and natural inference from the Constitution. This idea of drawing powers by inference and construction had been stretched, on former occasions, much beyond what he considered a proper attention to its spirit would justify; but the doctrine on this point could not be inferred from that instrument, because the argument by inference is rebutted by the express declaration made in the amendments to the Constitution, wherein it is declared that all the powers which are not given to the United States are reserved either to the States or to the people; and again, it declares that every man shall be secured in his person and papers from unlawful searches and seizures; and further, no person shall be called upon in a criminal case to give testimony against himself.

He supposed the resolutions considered the publications in the *Aurora* as criminal, otherwise they would not make this stir about them. Gentlemen have asked, are the newspapers to be permitted to go on and vilify the members of the Legislature without punishment? He answered, the printers of papers published on their own responsibility, and if they had no authority for any scandalous assertions respecting the Senate, they could be punished in the way pointed out by law. But would the members wish to draw the printers before the House and assume the judiciary powers of the courts of justice? As they had not the advantage of grand juries from every vicinage, to present the libels as they arise in the various quarters of the Union, they would be forced to appoint another committee to remark the files of all the printers from Maine to Georgia, in order to procure a knowledge of the numerous calumnies and slanders on the Senate, which have been fabricated by them, or communicated by their friends. He thought this a business of considerable extent,

and one which few gentlemen on the floor would be willing to labor through; he thought, moreover, when they erected themselves into Censors of the Press they would find no leisure from their office to attend to the performance of their ordinary duties of legislation or that portion of Executive business which the Constitution assigned to their care. He was confident it would give more general satisfaction to their immediate constituents, the State Legislatures, if members would attend to the business they were sent here to perform, than would be given by combining all powers of Government in their own body. It would certainly redound more to the honor of the Senate, if they left the courts to perform their duties in cases of libel, than to undertake, in their own behalf, the ungrateful office of judge and the ungraceful one of executioner; and all this either without law or by a resolution tantamount to an *ex post facto* law, directly in the face of the Constitution, which restricts Congress from passing an *ex post facto* law in all cases whatsoever.

MR. ANDERSON, of Tennessee, did not rise with an intention of entering into the merits of the general question, as to the extent of the privileges of the Senate, which he conceived to be of great moment, but merely to remark, as gentlemen alleged that the public mind was already agitated on the subject, the postponement would tend to increase the degree of agitation, which he conceived it was the wish of gentlemen on both sides to have allayed as soon as possible. He therefore concluded that it would be better to go on with the business and come as soon as possible to a decision. One gentleman had said it ought to go to the judicial courts, and that the Attorney General should be directed to prosecute; well, then, that gentleman should give his consent to send the business to a committee, in order to inquire whether the case would warrant this interference.

MR. REED, of South Carolina, would not oppose the motion of his honorable colleague for a postponement, if he had required it on his own account, or if its being negative would prevent him from bringing forward the preamble and resolution he had read in his place, and at a proper time of having them discussed; but neither of these circumstances were urged; therefore, as his colleague neither required time for preparation nor would be prevented from offering and supporting the intended amendment, he should vote against the postponement.

MR. PINCKNEY, of South Carolina, supposed if the postponement was lost, that the House would proceed with the discussion on the Connecticut motion, which he conceived would be progressing in an unnatural mode towards a decision. As he firmly believed that the privileges of the Senate were limited and defined by the Constitution, he could not resist calling the House in the first place to consider of and decide this question. He had heard arguments which he imagined would satisfy them of the justness of the conclusions he had drawn, and which would demonstrate that the privileges of the members did not go out of the doors of their Chamber; and that this was not

only the actual ground on which they stood, but it was the proper, the dignified, and manly attitude for them to take. Every gentleman should be the guardian of his own honor; and here he would just remark, that, from the style and manner used in the Connecticut motion, it was to be expected that in general the idea would be entertained that this procedure took its rise from an application made to the House either by himself or some of his friends, as he was the only member named; and the committee are directed to inquire by what authority the editor published in the Aurora that he (Mr. P.) had never been consulted. Far be it from him to ask the protection of the House for any publication respecting himself; though few persons in the United States had been more abused or calumniated than himself in the modern newspapers, he had never complained; he either despised the abuse, or answered the charges, which served to draw down contempt upon the slanderer's head; and this was the line of conduct which he recommended to others, who should find themselves in a similar situation. He trusted after what he had formerly declared, that he never gave or sent the editor of the Aurora either the bill which he published of any of the information accompanying it, that it would be unnecessary for him to declare anything further. He had said that he was prepared to go into the discussion, but his indisposition would scarcely permit him to do the subject the justice which its merits deserved, and he therefore still hoped the motion for postponement till Tuesday next would be agreed to.

MR. DAYTON had the highest confidence in the honor of the gentleman from South Carolina, (Mr. PINCKNEY,) and he never suffered himself to doubt of the truth of the declaration which had been made. He thought the resolutions might be varied so as to get rid of the idea which the gentleman objected to, in respect to the motion having been brought forward at his instance; and might be amended as suggested by the gentleman from Vermont, (Mr. PAINE,) so as to reconcile it still more to the sentiments of the Senate. This being his view of the subject, he wished the business to proceed, and should therefore vote against the postponement.

The question on postponing till Tuesday next, was now put, and the yeas and nays being called, stood yeas 9, nays 19, as follows:

YEAS—Messrs. Baldwin, Bloodworth, Brown, Cocke, Franklin, Langdon, Mason, Nicholas, and Pinckney.

NAYS—Messrs. Anderson, Bingham, Chipman, Dayton, Foster, Goodhue, Greene, Gunn, Hillhouse, Laurence, Livermore, Lloyd, Paine, Read, Ross, Schureman, Tracy, Watson and Wells.

So the motion was lost.

MR. NICHOLAS, of Virginia, wished to ask for information. Was it intended by this resolution to charge the committee with inquiring into a breach of privilege as it respected the majority of this body? For the resolution itself furnished no correct idea on this point. He wished also to know whether it was intended that the Senate should

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declare that the publication was a breach of privilege?

Mr. TRACY, of Connecticut, said that if the gentleman wished for information from him, he would endeavor to give it. He conceived it would be better to pursue the mode of inquiry in the first instance, through the intervention of a committee, and not make at once a decision whether the publication was or was not a breach of privilege; and further, that the committee should report to the Senate what other matters were the proper subjects for the Senate's inquiry. He would not undertake to say at this time whether there was a breach of privilege at all, or whether that breach was in respect to a majority of the House, or of the privilege of a single member.

Mr. MARSHALL, of Kentucky, was of opinion that if the subject itself was a proper one to be inquired into, then the mode was well devised, and one liable to few or no objections; but there was another circumstance to which he begged permission to call the attention of the Senate. He observed that the resolution pointed only to one object, and that was the publications in the *Aurora*; he did not think this went far enough, if it was intended to be anything more than a party manoeuvre. If gentlemen meant to defend the honor of this body, they should avoid anything like partiality, and direct their inquiry to all breaches of privilege, by publications in newspapers, let their publishers be whom they might. Believing that the gentlemen were serious in the present undertaking, he wished them to give it the appearance of impartiality, without which, it would reflect disgrace on their proceedings. Gentlemen have complained of the slander and calumny thrown upon them by the publications in the *Aurora*, but, however detestable they might be, he held in his hand one still more vile and flagrant. He would read it, and then move to amend the resolution before the House by adding that the committee be directed to inquire who is the editor of the *United States Gazette*, and by what authority he published in that paper the following paragraphs:

"The Democrats have at length completely carried their point with respect to the permanent army. It was resolved on Monday, in the Senate, that the bill, sent up from the House of Representatives, suspending the enlistments, should pass into a law; and no other reliance is now left us for the preservation of this bulwark of the public hope, from the effects of so ruinous a step, but the courage of his Excellency the President of the United States.

The votes in the Senate on this momentous question, were as follows:

For putting a stop to the enlistments: Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Foster, Franklin, Langdon, Marshall, Mason, Nicholas, and Pinckney.

Also Messrs. Bingham, Dexter, Goodhue, Greene, Gunn, Hillhouse, Howard, Livermore, and Paine.

Gentlemen who voted for preserving the army according to the law by which it was established—Messrs. Chipman, Latimer, Laurance, Lloyd, Read, Schureman, Tracy, Watson, and Wells.

Impressed as we are with the most serious alarms at

the manifest tendencies of this dreadful step, we cannot for a moment allow ourselves to doubt, that the measure will be nipped in the bud by the decided negative of the Executive. Never can there be an occasion more imperiously demanding that negative than the present. The President has expressly declared to both Houses of Congress, that a steady perseverance in a system of national defence is indispensable to our peace and safety. An advance therefore, on the part of Congress, towards impairing the grounds on which his administration rests, and on which his particular measures are bottomed, can only be met on his part, by opposing a firm countenance to such attempts at the outset, or by recalling the steps themselves.

The measure just adopted is more awful, I think, in whatever aspect viewed, than that proposed by the honorable member from Virginia. In the first place, as it was carried by federal votes; by gentlemen, who, under the influence of I know not what wretched calculations, advance into what they deem a neutral region, to embrace the enemy. This neutral country is full of concealed snares, and gins, and pitfalls: every step of it is mined, and fraught with devices for their destruction. They have been blown from it into the air more than fifty times, and yet they advance upon it again, with the most sovereign unconcern. In the second place, from the excess of evil there often arises some important good—their extremes do often meet. From this benefit these gentlemen have most kindly cut us off; and by the half measures they have adopted, left us exposed to all the mischiefs which could have resulted from the prevalence of the motion of Mr. Nicholas. Thirdly, the measure of stopping the recruiting service is worse than that of disbanding the army; because nearly all the expense still continues, while all the beneficial effect of that expense is perverted to our injury. A monarch without subjects, a general without an army, and an officer without soldiers, are standing butts of the jest and ridicule of all mankind; and a surer mode could hardly have been devised for disgusting every military man in the country than this of depriving the officers of their troops, thereby making each of them a pompous effigy of dignity, a *nomen et præterea nihil*. These officers will not mutiny against their Government, because they are amongst the most respectable and patriotic of men. It is my pride to boast an acquaintance with many of them, who have laid aside professions which supported them in the rank of gentlemen, and with others who relinquished every luxury and enjoyment of affluence, to join this army, this phalanx of federalism, these cohorts of justice and honor, against the infidel, rapacious, and sanguinary invaders of our rights, and their atrocious and unprincipled sectaries. I know they will not mutiny; but if it had been sought to devise a scheme to drive men to the extremest excess of disgust, I know not a more plausible one than this.

The resolution proposed by Mr. Randolph ought now in all reason to be adopted. It is necessary in order to render this measure consistent with reason or common sense. The whole force of the mighty Twelve Regiments is then cut down to about three thousand men! Precious defence against the invasion of a foreign enemy, or the machinations of domestic treason! Why, McKean will turn out more than this number of well-armed well-organized militia-men from the city and county of Philadelphia alone. I do not think that the movements of that powerful Triumvirate, Jefferson, McKean, and Monroe, are by any means to be despised or disregarded. It is no longer a doubt that our unhappy country nour-

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ishes in her bosom vipers who live but in the hope of inflicting a mortal sting. There is not a doubt, that there are men in America, and men too of powerful and operative force, who would prostrate without remorse every pillar of the public happiness, to found an hierarchy under which they might more securely aggrandize themselves; I do not less doubt that these Capulets are abroad, that their hot blood is up and stirring towards this object. And is this a time for disbanding troops? Is there not extant a danger to be guarded against *quo-cunque modo*? But there seems to be a system for repressing in the Federal cause all spirit worthy of the part which it is called to act. Sure never till now, were the counsels of Adonis relied on in affairs of State. When the reins of the steeds and the chariot of the Sun were entrusted to the guidance of Phæton, we read that the car was overthrown, and the presumptuous youth submerged in the waves.

True Americans will say, it is a vexatious suit that this man urges, when the truth is, that I have only to say *vestra res agitur*. They will exclaim, whence this abuse and illiberality against an economical and a conciliatory measure? It was by this cursed economy that the villain Neckar brought his monarch into all his troubles; and it was by conciliatory measures that the unhappy prince lost his head.

If the economy, and the squeamishness, and the present conciliatory disposition of Federalism endure much longer, its empire will pass away like a dream, or the shadows of illumination; no figure will encompass it around; and its economy, and its conscientiousness, and its conciliation, and all its bitter delusions, will be atoned in one truly republican succession of fire and blood.

The abuse of True Americans, half federalists, and conciliation men, I have long learnt to despise. I feel inexpressible and uncontrollable chagrin and indignation when I see measures pursued, under whatever calculations, so evidently tending to the ruin and subversion of the order and peace of this society, and so utterly militant against all usage and experience. Not having any gold to hug, like the poor, rich True Americans, and time-serving federalists and conciliators, I have no other object so near me as the success and prosperity of my much abused, sadly distressed country; and I will protest alike against the undivulged pretence of treasonous malice, and the more fatal cowardice and ignorance of the enemies to every establishment by which, in this day of distress and tribulation, the great ark of our safety might be preserved and maintained.

I will dwell but for a moment on the hope that the President will interpose his veto between this alarming measure and its consequences, and then quit a subject on which there will be nothing more to say.

The preservation of harmony between the different branches of the Government is undoubtedly desirable; at the same time when an important prerogative is entrusted to either department, and the exercise of that prerogative is demanded by motives of public safety, no considerations of this or any other nature ought to prevent the exertion of it. Nor do the reproaches of evil-minded men on such occasions, merit the slightest regard. It is true that the newly enlightened citizens of France murdered their royal master on this pretence; but the people of America, however debauched by the introduction of the profligate principles of that hideous race, are not yet degenerated to so high a pitch of perfectibility, civilization, and refinement. In this one respect, at least, they are not yet the freest and most enlightened nation on earth. I think that whoever atten-

tively considers the late events in France, will view that Republic as a more formidable enemy to America than ever—formidable in enmity, in fallacious peace still more so: *Gallis fidem non habendum*. Talleyrand, who was turned out of office by the old Government, for demanding tributes and bribes of our Ministers, we behold re-instated in his former office by the new governors! And for what particular merit more probably, than for his care over the strong box of the Republic, to which Bonaparte appears to have a very single eye? With this polluted, ill-omened Apostolus Diaboli our mission must treat, if they be at all allowed to treat, which I deem very questionable.

Are these the auspices on which we are to rely for peace: is this the crisis at which our wisdom disbands the only army the country has to boast of?"

[NOTE.—The above comprises all of the debate on this subject which the Compiler has been able to recover. The explanatory remarks* by the Reporter for the "Aurora," will probably account for the meagerness of the report.]

It was then moved to amend the motion, by inserting, between the words "Senate" and the word "and," in the fourth line from the end, these words:

"And that the said committee be also directed to inquire who is the editor of the newspaper, printed in said city, called the 'Gazette of the United States and Philadelphia Daily Advertiser,' and by what means the said editor became possessed of the votes in the Senate on the bill, sent from the House of Representatives, for suspending the enlistments of the twelve regiments, &c., as published in the said newspaper, bearing date the 13th of February (instant;) and by what authority he published those votes particularly, and under the classification contained in the said newspaper; and, also, whether the said editor is the author, or not, and if not, who is the author of sundry assertions, observations, and reflections, immediately preceding and following the statement of the said votes, and published in the said paper, of, and concerning the Senate of the United States, and the members thereof, in their official capacity."

It passed in the negative—yeas 11, nays 16, as follows:

YEAS—Messrs. Anderson, Baldwin, Bloodworth, Cocke, Franklin, Langdon, Lloyd, Marshall, Mason, Nicholas, and Pinckney.

NAYS—Messrs. Bingham, Chipman, Dayton, Foster, Greene, Gunn, Hillhouse, Laurance, Livermore, Paine Read, Ross, Schureman, Tracy, Watson, and Wells.

THE JUDICIARY.

Agreeably to notice given yesterday, Mr. PINCKNEY had leave to bring in a bill to amend the act, entitled "An act to establish the Judicial Courts

* We are fortunately enabled to give a sketch of the proceedings in the Senate of the United States on Mr. Tracy's resolution, respecting a publication in the Aurora of the 19th ult., a subject involving in it not only the privilege of members of Congress, but determining the liberty of the press, in a more decisive manner than either the Sedition law of the last Congress, or the judicial decision of the Chief Justice, that the common law of England exists in all its force under our Federal Constitution. We are sorry that our report is confined to a mere sketch, because the subject requires the fullest display, but the extreme inconvenience of the scanty gallery, which was crowded, in an uncommon manner, prevented us from hearing in some cases with the accuracy we wished, and limited our notes; we however trust that enough will be detailed to give a general idea of the motives, intentions and objects by which the members were respectively guided and influenced.—Reporter for the Aurora.

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of the United States;" which was read and ordered to the second reading.

On introducing the above bill Mr. PINCKNEY addressed the Chair as follows:

Mr. President: When I first had the honor of addressing you on this subject it appeared to me necessary to move an amendment to the Constitution; on reflection, however, I am since convinced that the more regular and expeditious mode would be to move an amendment to the law establishing the Judicial Courts of the United States—by this means the law may be passed during the present session, and we shall the more readily obtain the limitation we contend for.

As the Judiciary is among the most important departments in our Government, as it reaches every situation in society—neither the rich, the honored, or the humble, being without its influence or above its control—as it is the department to which not only the lives and fortunes, but the characters of our citizens are peculiarly entrusted, it becomes us to be extremely careful that the Judges should not only be able and honest men, but independent in their situation. Our Constitution has in some degree secured their independence by giving them permanent salaries, and rendering them ineligible to the Legislature; but in vain will we consider them independent, in vain may we suppose their opinion beyond the control or interference of the Executive, until we have determined it shall not be in his power to give them additional offices and emoluments, while Judges; until, in short, we confine them wholly to their duties as Judges, and teach them to believe that in the execution of the laws they should consider themselves as little obliged to please the President, or to fear his disapprobation, as that of any other man in the Government. This can only be done by preventing them accepting other offices, while they continue as Judges, and thus depriving him of the power of heaping upon them additional favors and emoluments.

It is an established maxim, and I hope will forever remain so, that the Legislature and Judiciary should be as distinct as the nature of our Government will admit; that is, that the same men shall not, in a deliberative capacity, agree to measures which they shall afterwards have a right to explain and decide upon in a judicial one. The reason is obvious; that the Judges should, in a calm and unprejudiced manner, explain what the law literally is, and not what it ought to be; that they should not be allowed to carry upon the bench those passions and prejudices which too frequently prevail in the adoption and formation of legislative acts and treaties, and which never fail to give an irresistible bias to the opinions of a Judge who has been concerned in making them. The truth of this reasoning is now so generally conceded, that there is not a man who knows anything of government that will attempt to controvert it; the constitutions of all the States have sanctioned it, and if the opinions of the Federal Convention ought to have weight, they so strongly insisted upon it as even to refuse, after repeated trials, associating the Judges with the President in the exercise of his revision-

ary power; indeed a gentleman high in office, and who held both situations at the same time as Judge and Envoy, is himself decidedly of this opinion, for in his charge to the Eastern juries he has these expressions:

"Wise and virtuous men have thought and reasoned very differently respecting Government; but in this they have at length very unanimously agreed, viz: "that its powers should be divided into three distinct independent departments, the Executive, Legislative, and Judicial. But how to constitute and balance them so as best to guard against abuse and fluctuation, and preserve the Constitution from encroachments, are points on which there continues to be a great diversity of opinions, and on which we all have as yet much to learn. The Constitution of the United States has therefore instituted these departments, and much pains have been taken so to form and define them, as that they may operate as checks one upon the other, and keep each within its proper limits: it being universally agreed to be of the last importance to a free people, that those who are vested with Legislative, Executive, and Judicial powers should rest satisfied with their respective portions of power; and neither encroach on the provinces of each other, nor suffer themselves or the others to intermeddle with the rights reserved by the Constitution to the people."

If, then, there can be no doubt of its propriety when applied to a Judge, in ordinary cases, how much more forcibly does it apply to an Envoy who concludes a treaty, which when ratified is to become the supreme law of the land; how strongly must the negotiation of so important and in many instances so difficult a business, be impressed on his mind! He will no doubt retain the journals of his proceedings and opinions, and perfectly recollect the progress and termination of every proposal which was compromised or rejected. It must be difficult for him to forget the attempts to which Ministers are sometimes liable in condescending where their object is honorable; he will remember what his opinions were upon particular points; and, whether they were successful or not, his general character may be that of not very easily yielding them. In short it is impossible for him to be that cool and unbiassed interpreter of the treaty which he otherwise might have been, had he not been concerned in concluding it.

The Constitution contemplates an independent Judiciary. The public, therefore, will expect and have a right to demand, upon all questions, a fair and impartial trial by Judges, whose minds are open to conviction, and unprejudiced by party opinions; by men who have not been concerned in forming a law or treaty, but who are totally unfettered by the recollection of what passed at the negotiation, or what might have been wished or expected by either party, as judges, candidly and impartially to determine upon every question that may come before them.

These reasons are certainly sufficient to convince any one that this provision is necessary to the independence of the Judges, and the pure and unbiassed exposition of the laws; that unless it is done, their independence is a visionary and unfounded thing. That if the President can hold out to the Judges the temptation of being Envoys, or of

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giving them other offices, and that he still can continue them as Judges, that on any question in which the President or his friends, or the Government, may be concerned, it might have a tendency to influence them in opinion; that it was not frequently to be expected they would be unmindful from whom they received the present appointments, or so entirely indifferent to their own, or the advancement of their families as not sometimes to recollect that from the same source other and greater emoluments might in future be derived; that ingratitude was not often the vice of public officers while their patron continued in power; that on subjects where his character, his feelings, or the public opinion of his acts were in question, our Judges might reasonably be expected not to be chargeable with apathy or inattention; and that the true way to assert the dignity of the President and the honor and independence of the Judges, was to place it out of the power of the one to offer, and the other to accept additional favors.

That a Judge ought never to be absent from the United States, or be drawn from his official situation and leave an undue proportion of its duties to be performed by the remainder of the bench; that the number of Judges were exactly proportioned to the duties they were to perform; that to withdraw one and be incapable of supplying the vacancy, was not only to require the inexecution of the laws in some parts of the Union, but to inviscerally harass the other, while a favorite or possibly too complying a Judge was sent to gratify his curiosity or indulge his taste on some agreeable or easy mission.

That no man ought to hold two offices under the same Government, particularly where they were important; that most of the States had regulations to prevent this, and that nothing more contributed to the extravagance of a Government or the corruption and immorality of its citizens, than the power to heap many lucrative and perhaps useless offices on the same person; that it had a tendency to make them servile, to render them the tools and sycophants of men in power, and to degrade the character of office.

That in case of the impeachment of the President of the United States, the Chief Justice was to preside, and there was no provision in the Constitution to supply the vacancy; therefore, if an impeachment was to take place in his absence, it must remain undecided until the Chief Justice could be sent for; that this, if recollected by the Executive, should of itself have been an insuperable objection—in point of propriety, it always is so, but in point of delicacy it ought most strongly to have been so, because, here the President is the officer, and indeed the only one, who is implicated in the possibility of its inconvenience arising from absence of the Chief Justice. It is true it is to be presumed that the man who is elected by his countrymen to administer the important office of President, will be always so wise and virtuous as to make it very unlikely an impeachment of him should take place—the thing, however is possible. In times of difficulty where opinions run high, and where those opinions are strongly divided between

numerous and powerful parties, it is impossible to foretell what may happen. No man is said to be wise at all times, and our own experience and intercourse with the world must convince us that there are moments of enthusiasm, or of heat, or surprise, when the most cautious men are not quite so prudent as others. I will therefore ask, and do it with great deference, as the President is the only officer on whose trial the Chief Justice is to preside, or on whose impeachment his absence would be a public inconvenience, is it not perhaps presuming too far on his own infallibility or incapacity to err, to send the only officer to a distant country, without whose presence, in case of an impeachment, a court could not be formed to try him? I ask it with deference, and am sure these observations must have escaped the Executive, or the Chief Justice never would have been sent.

To evince the absolute necessity of some provision being made, it is to be observed that, as the law stands now, a Judge might not only accept any other appointment from the Executive of the Union, but he may accept them from the individual States, or what is still more dangerous, from a foreign Power, and thus become the minion of the one or the tool of the other, as circumstances or his own interest may prompt him. Few men will deny the necessity of some provision here, and that the present is an unwise and degrading situation for a national judiciary. Most of the States have carefully guarded their tribunals against a danger of this kind. The State of South Carolina, to which I belong, is remarkably express on this subject. Aware of the necessity of an independent judiciary, her constitution, in speaking of that department, has these words: "nor shall the Judges hold any other office of profit or trust under this State, the United States, or any other Power," a prohibition not more complete or full than ought to exist in the case of the Federal Judges.

The not preventing, by the Constitution, the Judges from holding other offices may possibly be considered as an omission; it is true, it might as well have been there; but when we examine the power given by the Constitution to Congress, to organize and establish the judicial courts—to fix their salaries, detail their duties, and arrange and alter the system as they think proper, there can be no doubt we have a perfect right to pass the bill I shall have had the honor to propose to you. It does not go to prevent the President's right to nominate a Judge, but only to declare that if a Judge accepts any other appointment he cannot continue a Judge; a limitation which the Legislature has most unquestionably a right to annex. To Congress is left the power to fix the number of Judges, ascertain their duties and the compensation they shall receive. They therefore clearly have the right to say that a Judge, on performing certain duties, shall receive a certain salary, but that if he does not perform them he shall not receive it; cases of sickness must of course be always excepted. Congress have a right to declare by law, as I shall hereafter endeavor to induce them, that no man shall hereafter hold two offices, of profit and

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trust, under this Government, at the same time. There can be no question as to their right to pass such a law; and it would certainly reach the case of the Judges. It could never have been the intention of the Constitution, nor will the nature of our Government quietly admit so great an impropriety, as that a man should hold an office, the duties of which he cannot, from his absence, perform, nor can any other be appointed to perform them for him, and that this man should nevertheless be authorized, if he please, to draw the salary. We are not quite so old, and not, I trust, quite so hackneyed in the arts of European Governments, as to bear this without a murmur, or to suffer it to grow into precedent without an attempt to correct it.

If we recollect the manner in which our Judges are appointed, that circumstance alone should induce us to adopt every mode in our power to render them independent of the Executive. They are appointed by the President, and if the moment after they receive their commissions they were really so independent as to be completely out of his reach—that no hope of additional favor, no attempt to caress could be reasonably expected to influence their opinions, yet it is impossible for them ever to forget from whom they have received their present elevation. Hence I have always been of opinion, that it was wrong to give the nomination of Judges to the President; it is, however, determined by the Constitution, and while the right continues in him, it must in some degree have its effects on the good wishes and influence of a Judge in his favor. He cannot hear anything respecting him in quite so unbiassed and impartial a manner, as he would be the President unknown to him, or had he not received any favor from him. It is our duty to guard against any addition to this bias, which a Judge, from the nature of his appointment, must inevitably feel in favor of the President. It is more particularly incumbent on us when we recollect that our Judges claim the dangerous right to question the constitutionality of the laws; and either to execute them or not, as they think proper; a right in my judgment as unfounded and as dangerous as any that was ever attempted in a free government; they however do exercise it, and while they are suffered to do so, it is impossible to say to what extent it might be carried. What might be the consequences if the President could at any time get rid of obnoxious laws by persuading or influencing the Judges to decide that they were unconstitutional, and ought not to be executed? It will be said this is arguing as if all our officers were corrupt—that we should place no confidence in them—and was truly taking the dark side of the picture. To this I answer that it is our duty to guard against every possibility of influence or corruption—hence springs the necessity of laws; if all our officers were perfect, and all our citizens honest and virtuous, there would be no occasion for them, but as it is the nature of men to err, and sometimes to be vicious, our laws are incompetent unless they are calculated to meet every contingency.

A strange doctrine has lately been circulated, which it is my duty to remark on—it is, that this

bill is to be considered as a reflection on the President for nominating a Chief Justice, and the Senate for having confirmed it, and that the Senate, by agreeing to it, will join in the censure. Being always ready to approve, and to praise what is meritorious, it is with great reluctance I can ever be brought to censure—I have no such intention at present. I can readily believe that many of the inconveniences I have mentioned may have escaped the President in the recent nomination. It is here I have always disliked it. I believe the general sentiment to be against it; but, be that as it may, no such reason ought ever to have weight in this House. If the thing is right, if it is now considered as proper for us to say, that the Judges must stay at home, and be confined to their judicial duties, and hold no other offices while Judges, we should do it, and not consider whether it is pleasing or otherwise to the President; he must understand public business too well to consider it in the nature of a reflection. We every day alter existing laws and regulations, without considering such changes as reflections on a preceding Legislature or President, and I should be sorry to suppose, that, while a bill was under discussion, the fear of displeasing the Executive should ever be used as a reason for its rejection. He has always a right to give his opinion in the exercise of his revisionary authority, and when he does, we will deliberately and respectfully attend to it. One remark more, and I shall no longer trespass on the patience of the House: it is, that a reason has been given for leaving the President at liberty to send a Judge on any delicate or difficult mission, which I do not conceive reputable either to the political or literary character of our country—it is said the Judges may be the most able and qualified men the President can find, and that being prevented from sending one of them, he may sometimes be obliged to send inferior and less important characters, and that the public interest might suffer. How far the present or any former supreme bench may justify the observation it is not for us to say, but never will I suppose that among a people so numerous and enlightened, so alive to their country's welfare, and hundreds, perhaps thousands, of whom are so devoted to public business, can only six men be found capable of discharging any political duties that Government might require; the idea is too degrading to our national character to be entertained for a moment. For these reasons I have thought it my duty to introduce this bill, and I trust it will pass and become a law.

THURSDAY, March 6.

The Senate took into consideration the amendment reported by the committee to whom was referred the bill, entitled "An act declaring the assent of Congress to certain acts of the States of Maryland and Georgia," and having adopted the same,

Resolved, That this bill pass with an amendment.

The bill, sent from the House of Representatives, entitled "An act for the relief of Thomas

Arnold," was read the second time, and referred to Messrs. FOSTER, GOODHUE, and GREENE, to consider and report thereon to the Senate.

The bill for the relief of Lyon Lehman was read the second time and referred to Messrs. WATSON, GOODHUE, and LANGDON, to consider and report thereon to the Senate.

The bill further to amend the act, entitled "An act to establish the Judicial Courts of the United States," was read the second time.

Ordered, That it be referred to the committee appointed the 12th of December last, to take into consideration that part of the Speech of the President of the United States, which recommends a revision and amendment of the Judiciary system, to consider and report thereon to the Senate.

The Senate resumed the consideration of the motion made on the 26th of February last, that an inquiry be had relative to a publication in a newspaper called the Aurora, on the 19th of the said month.

On motion to amend the original motion, by prefacing it with these words:

"Whereas the Constitution of the United States has expressly declared 'That the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people:' And whereas, to prevent any attempt being made on the part of either branch of Congress to define their own privileges, and exercise the same, as occasion or circumstances may, in their opinion, require, and to remove all doubt as to the extent and exercise of the privileges they are to enjoy, the Constitution has positively and expressly limited and defined the same, by declaring that each House shall be the judge of the elections, returns, and qualifications, of its own members; that they may compel the attendance of absent members, in such manner, and under such penalties, as each House may provide. That they may determine the rules of their proceedings; punish the members for disorderly behaviour; and, with the concurrence of two-thirds, expel a member. That the members of both Houses shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to, and returning from, the same; and for any debate or speech in either House shall not be questioned in any other place."

A motion was made to strike out from the amendment the second clause, to wit: all that follows the word "people;" and it passed in the affirmative—yeas 21, nays 8, as follows:

YEAS—Messrs. Anderson, Bingham, Chipman, Dayton, Foster, Franklin, Goodhue, Gunn, Hillhouse, Latimer, Laurance, Livermore, Lloyd, Marshall, Paine, Read, Ross, Schureman, Tracy, Watson, and Wells.

NAYS—Messrs. Baldwin, Bloodworth, Brown, Cocke, Langdon, Mason, Nicholas, and Pinckney.

And, on request, Mr. PINCKNEY had leave to withdraw the preceding part of the proposed amendment.

And, the original motion being amended, a motion was made to strike out all the words thereof after the words "Resolved, that," line 1st, and to insert, in lieu thereof, the following words:

"As the Constitution of the United States does not

vest in either branch of Congress any other powers on the subject of privilege than those mentioned, and limited, and defined therein, therefore, to assume any other privilege would be to diminish the rights of the people expressly reserved to them by the Constitution; to encroach on the power given to the Judicial; to disparage the right of trial by jury; and to establish the dangerous doctrine, that a single branch, without control or interference, can, at their own will, and in their own case, punish for reasons on which the Constitution has given them no power to decide."

And, after debate, the Senate adjourned.

FRIDAY, March 7.

Resolved, That this House will, on Monday next, take into consideration the report of the committee on the bill, entitled "An act to establish an uniform system of bankruptcy throughout the United States."

The Senate took into consideration the motion made yesterday, for amending the motion made on the 26th of February last, that an inquiry be had relative to a publication, of the 19th of said month, in a newspaper called the Aurora; and

A motion was made to strike out these words: "other powers on the subject of privilege than those mentioned, and limited, and defined therein; therefore, to assume any other privilege would be to diminish the rights of the people, expressly reserved to them by the Constitution;" and to insert the word "power" before the words "to encroach;"

And, after debate, the Senate adjourned.

SATURDAY, March 8.

Mr. LIVERMORE, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act respecting the Mint," reported the bill without amendment.

The Senate resumed the consideration of the motion made yesterday to strike out certain words from the motion of the preceding day, on the original motion made on the 26th of February last, that an inquiry be had relative to a publication of the 19th of the said month, in a newspaper called the Aurora.

And, on the question *to strike out*, and to insert the word "*power*," as stated yesterday, it passed in the affirmative,—yeas 19, nays 8, as follows:

YEAS—Messrs. Anderson, Bingham, Foster, Franklin, Goodhue, Greene, Hillhouse, Latimer, Laurance, Livermore, Lloyd, Marshall, Paine, Read, Ross, Schureman, Tracy, Watson, and Wells.

NAYS—Messrs. Baldwin, Bloodworth, Brown, Cocke, Langdon, Mason, Nicholas, and Pinckney.

And, on motion *to strike out* the original motion, for the purpose of inserting the amendment as amended, it passed in the negative—yeas 8, nays 19, as follows:

YEAS—Messrs. Baldwin, Bloodworth, Cocke, Franklin, Langdon, Mason, Nicholas, and Pinckney.

NAYS—Messrs. Anderson, Bingham, Chipman, Foster, Goodhue, Greene, Hillhouse, Latimer, Laurance,

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Livermore, Lloyd, Marshall, Paine, Read, Ross, Schureman, Tracy, Watson, and Wells.

So the amendment was lost.

A motion was made to strike out, after the words "Resolved, that," line first of the original motion, and insert, in lieu thereof,

"If be an instruction to the Committee of Privileges to inquire and report whether, in their opinion, the publication of the 19th of February, contained in the newspaper called the General Advertiser, or Aurora, is a seditious libel against the Senate of the United States; and, if so, whether the Attorney General should be requested to prosecute the editor thereof for the printing and publishing the same."

And it was agreed to divide the motion, and that the question be taken on *striking out*; and which passed in the negative—yeas 8, nays 19, as follows:

YEAS—Messrs. Baldwin, Bloodworth, Cocke, Franklin, Langdon, Mason, Nicholas, and Pinckney.

NAYS—Messrs. Anderson, Chipman, Dayton, Foster, Goodhue, Greene, Hillhouse, Latimer, Laurance, Livermore, Lloyd, Marshall, Paine, Read, Ross, Schureman, Tracy, Watson, and Wells.

So the motion was lost.

And, on motion to agree to the original motion as amended, it passed in the affirmative—yeas 19, nays 8, as follows:

YEAS—Messrs. Anderson, Chipman, Dayton, Foster, Goodhue, Greene, Hillhouse, Latimer, Laurance, Livermore, Lloyd, Marshall, Paine, Read, Ross, Schureman, Tracy, Watson, and Wells.

NAYS—Messrs. Baldwin, Bloodworth, Cocke, Franklin, Langdon, Mason, Nicholas, and Pinckney.

So it was

Resolved, That the Committee of Privileges be, and they are hereby, directed to consider and report what measures it will be proper for the Senate to adopt, in relation to a publication in the newspaper, printed in the city of Philadelphia, on Wednesday morning the 19th of February, 1800, called the General Advertiser, or Aurora; in which it is asserted, that the bill prescribing the mode of deciding disputed elections of President and Vice President of the United States had passed the Senate, when, in fact, it had not passed; in which it is also asserted, that the honorable Mr. Pinckney, a Senator from the State of South Carolina, and a member of the committee who brought before the Senate the bill aforesaid, had never been consulted on the subject; whereas, in fact, he was present at each meeting of the committee; and, generally, to report what measures ought to be adopted in relation to sundry expressions contained in said paper, respecting the Senate of the United States, and the members thereof, in their official capacity.

Mr. GOODHUE, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to extend the time of payment of bonds given for duties of impost in certain cases," reported the bill without amendment.

The VICE PRESIDENT laid before the Senate a return from the Secretary for the Department of

Treasury, of two abstracts of the emoluments of the officers of the customs for the year 1799.

Ordered, That they lie on the table.

MONDAY, March 10.

Mr. WATSON, from the committee to whom was referred the bill for the relief of Lyon Lehman, reported it without amendment.

Ordered, That the consideration of the report of the committee on the bill, entitled "An act to establish a uniform system of bankruptcy throughout the United States," which was the order of this day, be postponed until to-morrow.

Mr. MARSHALL presented the memorial of John Finnie, a collector of the revenue for the State of Kentucky, for additional compensation; which was read.

Ordered, That it lie on the table.

The Senate resumed the second reading of the bill, prescribing the mode of deciding disputed elections of President and Vice President of the United States; and, after debate,

Ordered, That it be recommitted to the original committee, further to consider and report thereon to the Senate; and that Mr. NICHOLAS be added to the committee.

The Senate took into consideration the amendments reported by the committee to the bill to establish a uniform mode of drawing jurors by lot, in all the Courts of the United States; and, after debate, adjourned.

TUESDAY, March 11.

Mr. LAURANCE presented the petition of Robinson and Hartshorne, and others, merchants of New York, requesting permission to export a quantity of gunpowder, for reasons therein stated; and the petition was read and referred to Messrs. LAURANCE, GOODHUE, and BINGHAM, to consider and report thereon to the Senate.

Agreeably to the order of the day, the Senate resumed the consideration of the resolution of the House of Representatives of the 10th of February last, for the adjournment of the two Houses of Congress on the first Monday in April next; and,

Resolved, That they do not concur therein.

A motion was made that a committee be appointed to inquire what laws will expire at the close of this session, or before the first Monday in December next, and make report thereof to the Senate.

Ordered, That Messrs. TRACY, BLOODWORTH, and CHIPMAN, be the committee.

Agreeably to the order of the day, the Senate took into consideration the report of the committee on the bill, sent from the House of Representatives, entitled "An act to establish a uniform system of bankruptcy throughout the United States;" and,

Ordered, That the further consideration thereof be postponed until Thursday next.

The Senate resumed the consideration of the amendments reported by the committee to the bill to establish a uniform mode of drawing jurors by

lot, in all the Courts of the United States; and, on motion to postpone the further consideration thereof until the next session of Congress, it passed in the affirmative—yeas 14, nays 8, as follows:

YEAS—Messrs. Anderson, Chipman, Dayton, Foster, Goodhue, Hillhouse, Langdon, Latimer, Livermore, Lloyd, Paine, Ross, Schureman, and Tracy.

NAYS—Messrs. Baldwin, Bloodworth, Brown, Cocke, Franklin, Greene, Nicholas, and Pinckney.

On motion that a committee be appointed to inquire whether any, and what, amendments are necessary in the act to establish the Judicial Courts of the United States, particularly the provision in said act for summoning jurors to serve in the Courts of the United States; and to report by bill or otherwise:

Ordered, That this motion lie for consideration.

WEDNESDAY, March 12.

The VICE PRESIDENT laid before the Senate a report from the Secretary for the Department of War, on the petition of Jonas Fauche, for services for a troop of dragoons late under his command in the State of Georgia; which was read.

Ordered, That it lie on the table.

The motion made yesterday for a committee to inquire what amendments are necessary in the act to establish the Judicial Courts of the United States, was resumed and adopted; and,

Ordered, That Messrs. CHIPMAN, LAURANCE, ANDERSON, NICHOLAS, and FRANKLIN, be the committee.

Mr. BINGHAM, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to allow a drawback of duties on goods exported to New Orleans, and therein to amend the act, entitled 'An act to regulate the collection of duties on imports and tonnage,'" reported the bill without amendment.

On motion it was agreed to amend the bill, and that it pass to the third reading as amended.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Campbell Smith;" also, a bill, entitled "An act to alter and establish sundry post roads;" in which bills they desire the concurrence of the Senate.

The bill last mentioned was read, and, by unanimous consent, it was read the second time, and referred to Messrs. NICHOLAS, READ, ANDERSON, LAURANCE, and ROSS, to consider and report thereon to the Senate.

The bill first mentioned in the message was read and ordered to the second reading.

The Senate resumed the second reading of the bill, sent from the House of Representatives, entitled "An act to extend the time of payment of bonds given for duties of imposts in certain cases."

Ordered, That the further consideration thereof be postponed.

The Senate resumed the second reading of the bill for the relief of Lyon Lehman, and it was ordered to the third reading.

The Senate resumed the consideration of the motion made on the 10th of February last, respecting a return of imports and exports, which was amended and agreed to, and,

Resolved, That the resolution of the Senate of the 10th of February, 1796, so far as it requires from the Secretary of the Treasury a yearly statement of the exports and imports of the United States, to and from each foreign nation, shall be, and the same is hereby, rescinded.

Ordered, That the return from the Secretary for the Department of Treasury, of two abstracts of the emoluments of the officers of the customs for the year 1799, be referred to Messrs. GOODHUE, BINGHAM, and LAURANCE, to consider and report thereon, by bill or otherwise.

THURSDAY, March 13.

The bill, sent from the House of Representatives, entitled "An act for the relief of Campbell Smith," was read the second time, and referred to Messrs. GUNN, HILLHOUSE, and LAURANCE, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act to allow a drawback of duties on goods exported to New Orleans, and therein to amend the act, entitled 'An act to regulate the collection of duties on imports and tonnage,'" was read the third time.

Resolved, That this bill pass as amended.

The bill for the relief of Lyon Lehman was read the third time; and, on the question to agree to the final passage of this bill, it passed in the negative.

A message from the House of Representatives informed the Senate that the House have agreed to the amendment of the Senate to the bill, entitled "An act declaring the assent of Congress to certain acts of the States of Maryland and Georgia," with an amendment, in which they desire the concurrence of the Senate.

The Senate took into consideration the amendment of the House of Representatives to their amendment to the bill last mentioned; whereupon,

Resolved, That the Senate do agree to the amendment to the amendment.

Agreeably to the order of the day, the Senate resumed the second reading of the bill, entitled "An act to establish an uniform system of bankruptcy throughout the United States;" and, after progress,

Ordered, That the further consideration thereof be postponed.

FRIDAY, March 14.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to prevent the interference of any military force in certain elections;" also, a bill, entitled "An act to alter the times of holding the district court in North Carolina;" in which bills they desire the concurrence of the Senate—they disagree to the amendments of the Senate

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to the bill, entitled "An act to allow a drawback of duties on goods exported to New Orleans, and therein to amend the act, entitled 'An act to regulate the collection of duties on imports and tonnage.'"

The Senate resumed the second reading of the bill, entitled "An act to establish an uniform system of bankruptcy throughout the United States."

On motion to strike out from the clause, section 1st, lines 4th and 5th, "that from and after the 1st day of June next, if any merchant or other person," the words "or other person:"

It passed in the negative—yeas 13, nays 15, as follows:

YEAS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Dayton, Franklin, Goodhue, Hillhouse, Langdon, Mason, Nicholas, and Pinckney.

NAYS—Messrs. Bingham, Chipman, Foster, Greene, Gunn, Laurance, Livermore, Marshall, Paine, Read, Ross, Schureman, Tracy, Watson, and Wells.

And, after progress, it was agreed that the further consideration of the bill be postponed until Monday next.

Mr. DAYTON, from the Committee of Privileges, to whom it was referred, on the 8th instant, to consider and report what measures will be proper to adopt in relation to a publication in the newspaper printed in the city of Philadelphia, on Wednesday morning, the 19th of February last, called the General Advertiser, or Aurora, made report; which was read.

Ordered, That it lie on the table.

Mr. HILLHOUSE, from the committee to whom was referred the Message of the President of the United States, of the 8th of January last, together with the report of the Director of the Mint, of the 1st of said month, made report, which was read.

Ordered, That it lie on the table.

The bill first mentioned in the message from the House of Representatives of this day was read and ordered to the second reading.

The other bill mentioned in the said message, and brought up for concurrence, was read; and, by unanimous consent, it was read the second time, and referred to Messrs. FRANKLIN, BLOODWORTH, and LIVERMORE, to consider and report thereon to the Senate.

The Senate took into consideration the memorial of John Finnie, presented the 10th instant.

Ordered, That it be referred to the Secretary of the Department of Treasury, to consider and report thereon to the Senate.

MONDAY, March 17.

The bill, sent from the House of Representatives, entitled "An act to prevent the interference of any military force in certain elections," was read the second time, and referred to Messrs. DEXTER, ROSS, and DAYTON, to consider and report thereon to the Senate.

Mr. ANDERSON presented the memorial of Paul McDermott, praying to be discharged from certain sums for which he is held accountable as paymas-

ter; he having, by unavoidable casualty, lost his baggage, which includes vouchers, as he states, to the amount for which he stands charged.

The memorial was read and referred to Messrs. ANDERSON, TRACY, and DAYTON, to consider and report thereon to the Senate.

Mr. ROSS, from the committee to whom was re-committed the bill prescribing the mode of deciding disputed elections of President and Vice President of the United States, reported amendments, which were read.

Ordered, That they lie on the table.

Mr. FRANKLIN, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to alter the times of holding the district court in North Carolina," reported the bill without amendment, and, by unanimous consent, it was read the third time and passed.

The Senate resumed the second reading of the bill, sent from the House of Representatives, entitled "An act to extend the time of payment of bonds given for duties of imposts in certain cases," and on the question to agree to the third reading of the bill, it passed in the negative; so the bill was lost.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to fix the compensation of the Paymaster General, and assistants to the Adjutant General," in which they desire the concurrence of the Senate.

The bill was read and ordered to the second reading.

The Senate took into consideration the resolution of the House of Representatives disagreeing to the amendments of the Senate to the bill, entitled "An act to allow a drawback of duties on goods exported to New Orleans, and therein to amend the act, entitled 'An act to regulate the collection of duties on imports and tonnage.'"

Resolved, That the Senate *insist* on their amendments, ask a conference thereon, and that Messrs. BINGHAM and GOODHUE be managers at the same on the part of the Senate.

Mr. GREENE, from the committee to whom was referred the petition of Joseph Russell and others, made report, which was read, and ordered to lie on the table.

The Senate took into consideration the report of the committee on the petition of Jeremiah Yellott, which is, that the prayer of the petitioner is reasonable; and the report was adopted.

Ordered, That the committee who made the report be instructed to bring in a bill accordingly.

The Senate resumed the second reading of the bill, sent from the House of Representatives, entitled "An act to establish an uniform system of bankruptcy throughout the United States."

On motion to insert, in section 1st, line 46, after the word "provided," the following words: "that this act shall not be construed to extend to farmers, graziers, drovers, tavernkeepers, or manufacturers," it passed in the negative—yeas 12, nays 14, as follows:

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YEAS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Franklin, Goodhue, Hillhouse, Langdon, Mason, Nicholas, and Pinckney.

NAYS—Messrs. Bingham, Chipman, Dexter, Foster, Greene, Laurance, Livermore, Lloyd, Marshall, Read, Ross, Schureman, Tracy and Wells.

On motion to insert, in section 1st. line 9th, after the word "dollars," the following words, "contracted by such dealings," it passed in the negative,—yeas 12, nays 13, as follows:

YEAS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Franklin, Goodhue, Hillhouse, Langdon, Mason, Nicholas, and Pinckney.

NAYS—Messrs. Chipman, Dexter, Foster, Greene, Laurance, Livermore, Lloyd, Marshall, Read, Ross, Schureman, Tracy, and Wells.

On motion to strike out of the proviso, in the 6th section, line 29th, the following words: "two hundred" and to insert "fifty," it passed in the negative—yeas 10, nays 14, as follows:

YEAS—Messrs. Anderson, Baldwin, Brown, Cocke, Franklin, Goodhue, Hillhouse, Langdon, Mason, and Nicholas.

NAYS—Messrs. Bingham, Chipman, Dexter, Foster, Greene, Laurance, Livermore, Lloyd, Marshall, Read, Ross, Schureman, Tracy, and Wells.

Ordered, That the further consideration of the bill be postponed.

TUESDAY, March 18.

The bill, sent from the House of Representatives for concurrence, entitled "An act to fix the compensation of the Paymaster General, and assistants to the Adjutant General," was read the second time and referred to Messrs. GUNN, DAYTON, and ROSS, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that the House agree to the conference proposed by the Senate, on the amendments to the bill, entitled "An act to allow a drawback of duties on goods exported to New Orleans, and therein to amend the act, entitled 'An act to regulate the collection of duties on imports and tonnage,' and have appointed managers at the same on their part.

The Senate took into consideration the report of the Committee of Privileges, on the measures that will be necessary to adopt in relation to a publication in the newspaper, printed in the city of Philadelphia, on Wednesday morning, the 19th of February last, called the General Advertiser, or Aurora; and,

On motion to adopt the first resolution reported, it was agreed to divide the motion, and that the question should be taken on the following words:

Resolved, That the said publication contains assertions, and pretended information, respecting the Senate, and the Committee of the Senate, and their proceedings, which are false, defamatory, scandalous, and malicious; tending to defame the Senate of the United States, and to bring them into contempt and disrepute, and to excite against them the hatred of the good people of the United States.

And, on the question, to adopt this part of the resolution, reported by the committee, it passed in the affirmative—yeas 20, nays 8, as follows:

YEAS—Messrs. Anderson, Bingham, Brown, Chipman, Dayton, Dexter, Foster, Goodhue, Greene, Gunn, Hillhouse, Laurance, Livermore, Lloyd, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAYS—Messrs. Baldwin, Bloodworth, Cocke, Franklin, Langdon, Marshall, Mason, and Nicholas.

WEDNESDAY, March 19.

The VICE PRESIDENT communicated a letter from JAMES WATSON, a Senator from the State of New York, resigning his seat in the Senate; which was read.

Resolved, That the Vice President be requested to notify the Executive of the State of New York, that James Watson hath resigned his seat in the Senate.

Mr. GUNN, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act for the relief of Campbell Smith," reported an amendment, which was read.

Ordered, That the report lie on the table.

Mr. BINGHAM presented the memorial of the select and common council of the city of Philadelphia, stating their exposed situation to pestilence, and the necessity of general laws on the subject of quarantine; and the memorial was read.

Ordered, That it be referred to the committee appointed the 27th of February last, on the subject, to consider and report thereon to the Senate; and that Mr. LLOYD be added to the committee.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to extend the privileges of obtaining patents for useful discoveries and inventions to certain persons therein mentioned, and to enlarge and define the penalties for violating the rights of patentees;" a bill, entitled "An act to enable the President of the United States to borrow money for the public service;" and a bill, entitled "An act supplemental to the act, entitled 'An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a Government in the Mississippi Territory,'" in which bills they desire the concurrence of the Senate.

The Senate resumed the consideration of the report of the Committee of Privileges, on the measures proper to adopt in relation to a publication in the newspaper called the Aurora, of the 19th of February last; and it was agreed to amend the second member of the first resolution reported, as follows: "and that the said publication is a high breach of the privileges of this House;" and, on the question to agree thereto, as amended, it was determined in the affirmative—yeas 17, nays 11, as follows:

YEAS—Messrs. Bingham, Chipman, Dexter, Foster, Goodhue, Greene, Gunn, Hillhouse, Laurance, Livermore, Lloyd, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAYS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Franklin, Langdon, Marshall, Mason, Nicholas, and Pinckney.

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THURSDAY, March 20.

The bills yesterday brought up from the House of Representatives, for concurrence, were read, and ordered to the second reading.

Mr. GOODHUE, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to continue in force 'An act concerning certain fisheries of the United States, and for the regulation and government of the fishermen employed therein, and for other purposes, as therein mentioned,'" reported the bill without amendment.

The Senate resumed the consideration of the report of the Committee of Privileges, on the measures proper to be adopted in relation to a publication of the 19th of February last, in the newspaper called the *Aurora*; and it was agreed to fill the blanks in the second resolution reported, with the words "Monday 24th, twelve o'clock," and, at the close of the resolution, with the words "twenty-second;" and,

On motion, to adopt this part of the report, as follows:

Resolved, That William Duane, now residing in the city of Philadelphia, the editor of the said newspaper called the *General Advertiser*, or *Aurora*, be, and he is hereby, ordered to attend at the bar of this House, on Monday, the 24th day of March inst., at 12 o'clock, at which time he will have opportunity to make any proper defence for his conduct, in publishing the aforesaid false, defamatory, scandalous, and malicious assertions, and pretended information: and the Senate will then proceed to take further order on the subject; and a copy of this and the foregoing resolution, under the authentication of the Secretary of the Senate of the United States, and attested as a true copy by James Mathers, Sergeant-at-Arms for the said Senate, and left by the said Sergeant-at-Arms with the said William Duane, or at the office of the *Aurora*, on or before the twenty-second day of March instant, shall be deemed sufficient notice for the said Duane to attend in obedience to this resolution:

It passed in the affirmative—yeas 18, nays 10, as follows:

YEAS—Messrs. Bingham, Chipman, Dayton, Dexter, Foster, Goodhue, Greene, Gunn, Hillhouse, Laurance, Livermore, Lloyd, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAYS—Messrs. Anderson, Baldwin, Bloodworth, Cocke, Franklin, Langdon, Marshall, Mason, Nicholas, and Pinckney.

So the report of the committee was adopted, as follows:

Whereas, on the 19th day of February, now last past, the Senate of the United States, being in session, in the city of Philadelphia, the following publication was made in the newspaper, printed in the said city of Philadelphia, called the *General Advertiser*, or *Aurora*, viz:

"In our paper of the 27th ult. we noticed the introduction of a measure into the Senate of the United States, by Mr. Ross, calculated to influence and affect the approaching Presidential election, and to frustrate, in a particular manner, the wishes and interests of the people of the Commonwealth of Pennsylvania.

"We this day lay before the public a copy of that bill as it has passed the Senate.

"Some curious facts are connected with this measure, and the people of the Union at large are immediately, and the people of this State immediately, interested to consider the movements, the mode of operation, and the effects.

"We noticed a few days ago the caucuses (or secret consultations) held in the Senate Chamber. An attempt was made in an evening paper to give a counteraction (for these people are admirable at the system of intrigue) to the development of the *Aurora*, and to call those meetings jacobinical; we must cordially assent to the jacobinism of those meetings—they were in the perfect spirit of a jacobinical conclave.

"The plain facts we stated are, however, unquestionable; but we have additional information to give on the subject of those meetings. We stated, that intrigues for the Presidential election were among the objects; we now state it as a fact that cannot be disputed upon fair ground, that the bill we this day present was discussed at the caucus on Wednesday evening last.

"It is worthy of remark how this bill grew into existence.

"The opponents of independence and republican Government, who supported Mr. Ross in the contest against Governor M'Kean, are well known by the indecency, the slander, and the falsehood of the measures they pursued—and it is well known that they are all devoted to the Federal party, which we dissected on Monday. Mr. Ross proposed this bill in the Federal Senate, (how consistently with the decency of his friends will be seen;) a committee of five was appointed to prepare a bill on the subject: on this committee, Mr. Pinckney, of South Carolina, was appointed. On Thursday morning last (the caucus held the preceding evening) Mr. Ross informed Mr. Pinckney that the committee had drawn up a bill on the subject, when in fact Mr. Pinckney had never been consulted on the subject, though a member of the committee! The bill was introduced and passed as below.

"On this occasion it may not be impertinent to introduce an anecdote which will illustrate the nature of caucuses, and show that our popular Government may, in the hands of a faction, be as completely abused as the French Constitution has been, by the self-created Consuls:

"In the Summer session of 1798, when Federal thunder and violence were belched from the pestiferous lungs of more than one despotic minion, a caucus was held at the house of Mr. Bingham, in this city. It was composed of members of the Senate, and there were present seventeen members. The Senate consisting of thirty-two members, this number was of course a majority, and the session was a full one.

"Prior to deliberation on the measures of war, navy, army, democratic proscription, &c., it was proposed, and agreed to, that all the members present should solemnly pledge themselves to act firmly upon the measures to be agreed upon by the majority of the persons present at the caucus.

"The measures were perfectly in the high tone of that extraordinary session. But upon a division of the caucus it was found that they were divided, nine against eight. This majority, however, held the minority to their engagement, and the whole seventeen voted in Senate upon all the measures discussed at the caucus.

"Thus it is seen that a secret self-appointed meeting of seventeen persons dictated laws to the United States, and not only that nine of that seventeen had the full command and power over the consciences and votes of

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the other eight, but that nine possessed, by the turpitude of the eight, actually all the power which the Constitution declares shall be vested in the majority only. In other words, a minority of nine members of the Senate ruled the other twenty-three members.

"It is easily conceivable, as in the recent changes in France, that this spirit of caucusing may be conducted in progression down to two or three persons; thus three leading characters may agree to act upon measures approved by any two of them; these three may add two others, and they would be a majority of five; and those adding four others would be a majority of nine; and this nine possess all the power of a majority of twenty-three!"

"Yet such is the way we are treated by those who call themselves Federalists.

"The following bill is an offspring of this spirit of faction secretly working; and it will be found to be in perfect accord with the outrageous proceedings of the same party in our State Legislature, who are bent on depriving this State of its share in an election that may involve the fate of the country and posterity."

Resolved, That the said publication contains assertions and pretended information, respecting the Senate, and the Committee of the Senate and their proceedings, which are false, defamatory, scandalous, and malicious, tending to defame the Senate of the United States, and to bring them into contempt and disrepute, and to excite against them the hatred of the good people of the United States: and that the said publication is a high breach of the privileges of this House.

Resolved, That William Duane, now residing in the city of Philadelphia, the editor of the said newspaper called the General Advertiser, or Aurora, be, and he is hereby, ordered to attend at the bar of this House on Monday, the 24th day of March, inst., at 12 o'clock, at which time he will have opportunity to make any proper defence for his conduct, in publishing the aforesaid false, defamatory, scandalous, and malicious, assertions and pretended information; and the Senate will then proceed to take further order on the subject: and a copy of this and the foregoing resolution, under the authentication of the Secretary of the Senate of the United States, and attested as a true copy by James Mathers, Sergeant-at-Arms for the said Senate, and left by the said Sergeant-at-Arms with the said William Duane, or at the office of the Aurora, on or before the twenty-second day of March, instant, shall be deemed sufficient notice for the said Duane to attend in obedience to this resolution.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of John Collet," in which they desire the concurrence of the Senate.

The bill mentioned in the message was read, and ordered to the second reading.

The Senate resumed the second reading of the bill, sent from the House of Representatives, entitled "An act to establish a uniform system of bankruptcy throughout the United States."

On motion, to strike out the proviso, at the end of the tenth section, as follows:

Provided, always, That in case of a bona fide purchase, made before the issuing of the commission from or under such bankrupt, for a valuable consideration, by any person having no knowledge, information, or notice, of any act of bankruptcy committed, such purchase shall not be invalidated, or impeached."

It passed in the negative—yeas 10, nays 18, as follows:

YEAS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Goodhue, Hillhouse, Langdon, Nicholas, and Pinckney.

NAYS—Messrs. Bingham, Chipman, Dayton, Dexter, Foster, Franklin, Greene, Gunn, Laurance, Livermore, Lloyd, Marshall, Mason, Paine, Read, Ross, Schureman, and Tracy.

On motion to strike out the word "rest," section 30th, line 27th, and to insert in lieu thereof the word "vest," it passed in the negative—yeas 12, nays 15, as follows:

YEAS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Franklin, Goodhue, Hillhouse, Langdon, Mason, Nicholas, and Pinckney.

NAYS—Messrs. Bingham, Chipman, Dayton, Dexter, Greene, Gunn, Laurance, Livermore, Lloyd, Marshall, Paine, Read, Ross, Schureman, and Tracy.

FRIDAY, March 21.

The bill, sent from the House of Representatives, entitled "An act to extend the privileges of obtaining patents for useful discoveries and inventions, to certain persons therein mentioned, and to enlarge and define the penalties for violating the rights of patentees," was read the second time, and referred to Messrs. LIVERMORE, PAINE, and MARSHALL, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act supplemental to the act, entitled "An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a Government in the Mississippi Territory," was read the second time, and referred to Messrs. GUNN, ROSS, and DEXTER, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act to enable the President of the United States to borrow money for the public service," was read the second time, and referred to Messrs. READ, BINGHAM, and HILLHOUSE, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act for the relief of John Collet," was read the second time, and referred to Messrs. GOODHUE, BINGHAM, and LAURANCE, to consider and report thereon to the Senate.

The Senate took into consideration the amendment, reported by the committee, to the bill, entitled "An act for the relief of Campbell Smith;" and, having agreed thereto, the bill was ordered to the third reading as amended.

Mr. FOSTER, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act for the relief of Thomas Arnold," reported the bill without amendment.

Ordered, That the Committee of Privileges prepare and lay before the Senate a form of proceedings in the case of William Duane.

The Senate took into consideration the amendments reported by the committee to the bill pre-

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scribing the mode of deciding disputed elections of President and Vice President of the United States; and having agreed thereto, the bill was ordered to the third reading as amended.

Mr. GREENE notified the Senate that he should, on Monday next, ask leave to bring in a bill to alter the time of holding the district courts in Rhode Island.

SATURDAY, March 22.

Mr. DAYTON, from the Committee of Privileges, to whom it was referred to prepare and lay before the Senate a form of proceedings in the case of William Duane, reported in part; which report was read, amended, and agreed to, as follows:

When William Duane shall present himself at the bar of the House, in obedience to the order of the 20th inst., the President of the Senate is to address him as follows:

1st. William Duane:

You stand charged by the Senate of the United States, as editor of the newspaper called the General Advertiser, or Aurora, of having published in the same, on the 19th of February, now last past, false, scandalous, defamatory, and malicious assertions, and pretended information, respecting the said Senate and Committee of the Senate, and their proceedings, tending to defame the Senate of the United States, and to bring them into contempt and disrepute, and to excite against them the hatred of the good people of the United States; and therein to have been guilty of a high breach of the privileges of this House.

Then the Secretary shall read the resolutions of the Senate, passed the 20th instant, with the preamble; after which the President is to proceed as follows, viz:

1st. Have you anything to say in excuse or extenuation for said publication?

2dly. If he shall make no answer, the Sergeant-at-Arms shall take him into custody, and retire with him from the Senate Chamber until the Senate shall be ready for a decision, at which time the Sergeant-at-Arms shall again set him at the bar of the House, and the President of the Senate is to pronounce to him the decision.

3dly. If he shall answer, he is to continue at the bar of the House until the testimony (if any be adduced) shall be closed, and he shall retire while the Senate are deliberating on the case; and when a decision is agreed upon, the said Duane, being notified of the time by the Sergeant-at-Arms, verbally, or by a written notice left at his office, shall appear at the bar of the House, and the President of the Senate is to pronounce to him the decision.

The bill, sent from the House of Representatives, entitled "An act for the relief of Campbell Smith," was read the third time.

Resolved, That this bill pass as amended.

MONDAY, March 24.

The VICE PRESIDENT communicated a letter, signed William Duane, requesting to be heard by counsel, and have process awarded to compel the attendance of witnesses in his behalf, on the summons served on him the 22d inst., for a high breach of the privileges of the Senate; which letter was read.

A motion was made that William Duane be permitted to be heard by counsel, agreeably to his request; and, after debate, the said William Duane appeared at the bar of the House, agreeably to the summons of the 22d instant; a return thereon having been made in the words following:

CITY OF PHILADELPHIA, March 21, 1800.

Then I, the subscriber, Sergeant-at-Arms for the Senate of the United States, left a true and attested copy of the within at the office of the Aurora.

JAMES MATHERS.

And the charge against the said William Duane having been read, he repeated his request to be heard by counsel.

On which he was ordered to withdraw, and a motion was made as follows:

Resolved, That William Duane be permitted to be heard by counsel, he having appeared, agreeably to the order of the Senate, and requested that he might be heard by counsel.

On which a motion was made to strike out all the motion subsequent to the word "Duane," and insert:

Having appeared at the bar of the Senate and requested to be heard by counsel, on the charge against him for a breach of privileges of the Senate, he be allowed the assistance of counsel while personally attending at the bar of the Senate; who may be heard in denial of any facts charged against said Duane, or in excuse and extenuation of his offence.

And it was agreed to divide the motion, and that the question be taken on striking out; which passed in the affirmative—yeas 18, nays 11, as follows:

YEAS—Messrs. Bingham, Chipman, Dayton, Dexter, Foster, Goodhue, Greene, Hillhouse, Latimer, Laurance, Livermore, Lloyd, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAYS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Franklin, Langdon, Marshall, Mason, Nicholas, and Pinckney.

A motion was made to amend the amendment by striking out these words "he be allowed the assistance of counsel while personally attending the bar of the Senate; who may be heard in denial of any facts charged against said Duane, or in excuse and extenuation of his offence;" and to insert "he be permitted to have assistance of counsel for his defence;" and it was agreed to divide the motion, and that the question should be taken on striking out, which passed in the negative—yeas 10, nays 18, as follows:

YEAS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Franklin, Langdon, Marshall, Mason, and Nicholas.

NAYS—Messrs. Bingham, Chipman, Dayton, Dexter, Foster, Goodhue, Greene, Hillhouse, Latimer, Laurance, Livermore, Lloyd, Paine, Read, Ross, Schureman, Tracy, and Wells.

And, on the question to agree to the original amendment, it passed in the affirmative—yeas 21, nays 8, as follows:

YEAS—Messrs. Baldwin, Bingham, Bloodworth, Chipman, Dayton, Dexter, Foster, Franklin, Goodhue

Greene, Hillhouse, Latimer, Laurance, Livermore, Lloyd, Paine, Read, Ross, Schureman, Tracy, and Wells.

YAYS—Messrs. Anderson, Brown, Cocke, Langdon, Marshall, Mason, Nicholas, and Pinckney.

And the question being taken on the motion as amended, it was

Resolved, That William Duane having appeared at the bar of the Senate, and requested to be heard by counsel, on the charge against him for a breach of privileges of the Senate, he be allowed the assistance of counsel while personally attending at the bar of the Senate, who may be heard in denial of any facts charged against said Duane, or in excuse and extenuation of his offence.

A motion was made that it be an instruction to the Committee of Privileges to report in what manner witnesses shall be compelled to attend the Senate in support of the charge against William Duane, and in his defence against that charge.

And, after debate, the further consideration thereof was postponed.

Resolved, That a copy of the resolution last agreed to be sent to William Duane, and, at the same time, he be ordered to attend at the bar of this House at 12 o'clock, on Wednesday next.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled, "An act for the relief of the Corporation of Rhode Island College;" also a bill, entitled "An act supplementary to the act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers;" in which bills they desire the concurrence of the Senate.

TUESDAY, March 25.

Mr. DEXTER, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to prevent the interference of any military force in certain elections," reported the bill without amendment.

Mr. READ, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to enable the President of the United States to borrow money for the public service," reported the bill without amendment.

The two bills yesterday brought up from the House of Representatives for concurrence were read and ordered to the second reading.

The bill prescribing the mode of deciding disputed elections of President and Vice President of the United States was read the third time.

On motion to strike out the ten first sections, and insert—

Whereas, on an election of President and Vice President of the United States, questions may arise whether an Elector has been appointed in a mode authorized by the Legislature of his State or not: Whether the time at which he was chosen, and the day he gave his vote, were those determined by Congress: Whether he were not at the time a Senator or Representative of the United States, or held an office of trust or profit under the United States: Whether one at least of the persons he has voted for is an inhabitant of a State other than his own: Whether the Electors voted by ballot, and have signed, certified, and transmitted to the President

of the Senate a list of all the persons voted for, and the number of votes for each: Whether the persons voted for are natural born citizens, or were citizens of the United States at the time of the adoption of the Constitution, were thirty-five years old, and had been fourteen years resident within the United States: And the Constitution of the United States having directed that "the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and that the votes shall then be counted," from which the reasonable inference and practice has been that they are to be counted by the members composing the said Houses, and brought there for that office, no other being assigned them; and inferred the more reasonably, as thereby the Constitutional weight of each State in the election of those high officers is exactly preserved in the tribunal which is to judge of its validity: the number of Senators and Representatives from each State, composing the said tribunal, being exactly that of the Electors of the same State:

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That whensoever the members of the Senate and House of Representatives shall be assembled for the purpose of having the certificates of the Electors of the several States opened and counted, the names of the several States shall be written on different and similar tickets of paper and put into a ballot box, out of which one shall be drawn at a time; and so soon as one is drawn, the packet containing the certificates of that State shall be opened by the President of the Senate, and shall then be read, and then shall be read also the petitions, depositions, and other papers and documents, concerning the same; and if no exception is taken thereto, the votes contained in such certificates shall be counted, but if the votes, or any of them, shall be objected to, the members present shall, on the question propounded by the President of the Senate, decide, without debate, by yea or nay, whether such vote or votes are Constitutional or not; and the votes of one State being thus counted, another ticket shall be drawn from the ballot box, and the certificate, and the votes of the Electors of the State drawn, shall be proceeded on as before directed; and so on, one after another, until the whole of the votes shall be counted; and if the counting cannot be completed in one day, the members of the said two Houses may adjourn from day to day until it be completed."

A division of the question was called for, and that it first be taken on striking out.

A motion was made to strike out of section 1st, lines 10 and 11, these words: "and finally to decide," and to insert "into and report upon;" and a division of the motion was called for, and that the question be first taken on striking out; which passed in the negative—yeas 11, nays 18, as follows:

YEAS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Franklin, Langdon, Marshall, Mason, Nicholas, and Pinckney.

NAYS—Messrs. Bingham, Chipman, Dayton, Dexter, Foster, Goodhue, Greene, Hillhouse, Latimer, Laurance, Livermore, Lloyd, Paine, Read, Ross, Schureman, Tracy, and Wells.

A motion was made to strike out the 7th section, and after debate,

Ordered, That the further consideration of the bill at this time be postponed.

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informed the Senate that the House have passed a bill, entitled "An act to alter the form of certain oaths and affirmations directed to be taken by the act entitled 'An act providing for the second census or enumeration of the inhabitants of the United States;'" also, "Resolutions in honor of the conduct of Captain Thomas Truxtun, the officers, seamen, and marines, of the Constellation frigate, and of James Jarvis, a midshipman, who was lost in the late action with the French ship of war *La Vengeance*;" in which bill and resolutions they desire the concurrence of the Senate.

Mr. DAYTON, from the Committee of Privileges, to whom it was referred to prepare and lay before the Senate a form of proceedings in the case of William Duane, reported in part: and the report was read.

Ordered, That it lie for consideration.

WEDNESDAY, March 26.

The VICE PRESIDENT communicated a letter signed William Duane, stating that he had received "an authenticated copy of the resolution of Monday last in his case," and enclosing certain papers stated to be a correspondence between him and his intended counsel, marked A, B, and C, and that he finds himself "deprived of all professional assistance under the restrictions which the Senate have thought fit to adopt. He therefore thinks himself bound, by the most sacred duties, to decline any further voluntary attendance upon that body, and to leave them to pursue such measures in this case, as in their wisdom they may deem meet;" and the letter was read.

On motion that the papers referred to in the letter be read, it passed in the negative.

On motion, the Senate took into consideration the report of the Committee of Privileges, who were ordered to prepare and lay before the Senate a form of proceedings in the case of William Duane; and, after debate,

The order of the day was called for.

Ordered, That the Sergeant-at-Arms, at the bar of the House, do call William Duane. And the said William Duane did not appear. Whereupon,

Resolved, That as William Duane has not appeared at the bar of this House, in obedience to the order of the 24th instant, and has addressed a letter to the President of the Senate, which has been read this morning, in which he refuses any further attendance, his letter be referred to the Committee of Privileges, to consider and report thereon.

On motion, the Senate resumed the consideration of the report of the Committee of Privileges of the 25th instant. And on the question to agree to the first resolution, amended as follows:

Resolved, That all testimony shall be taken by the Committee of Privileges, who are hereby authorized to send for persons, papers, and records, and compel the attendance of witnesses which may become requisite for the execution of their commission:

It passed in the affirmative—yeas 18, nays 11, as follows:

YEAS—Messrs. Bingham, Chipman, Dayton, Dexter, Foster, Goodhue, Greene, Hillhouse, Latimer, Laurance, Livermore, Lloyd, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAYS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Franklin, Langdon, Marshall, Mason, Nicholas, and Pinckney.

On motion, the 4th resolution was adopted, as follows:

Resolved, That all testimony taken by said committee shall be reported to the Senate, and kept on file by the Secretary.

And, having agreed to postpone the other resolutions reported, the Senate adjourned.

THURSDAY, March 27.

The bill and resolutions, sent up from the House of Representatives on the 25th instant, for concurrence, were read, and ordered that the bill pass to the second reading.

Resolved, That the Senate concur in the resolutions in honor of Captain Thomas Truxtun, his officers, seamen, and marines.

The bill, sent from the House of Representatives, entitled "An act supplementary to the act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," was read the second time, and referred to Messrs. HILLHOUSE, PAINE, and BROWN, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act for the relief of the Corporation of Rhode Island College," was read the second time, and referred to Messrs. GREENE, LANGDON, and DEXTER, to consider and report thereon to the Senate.

Mr. DAYTON, from the Committee of Privileges, to whom was referred the letter of William Duane, on the 26th instant, made report, as follows:

Resolved, That William Duane, editor of the *General Advertiser*, or *Aurora*, having neglected and refused to appear at the bar of this House at 12 o'clock, on the 26th day of March instant, pursuant to the order of the 24th instant, of which order he had been duly notified; and having sent the following letter to the President of the Senate, which has been communicated to the Senate, viz:

"To the President of the Senate:

"SIR: I beg of you to lay before the Senate this acknowledgment of my having received an authenticated copy of their resolutions on Monday last, in my case. Copies of those resolutions I transmitted to Messrs. Dallas and Cooper, my intended counsel, soliciting their professional aid; a copy of my letter is enclosed, marked A. Their answers I have also the pleasure to enclose, marked B and C. I find myself, in consequence of these answers, deprived of all professional assistance, under the restrictions which the Senate have thought fit to adopt. I therefore think myself bound by the most sacred duties to decline any further voluntary attendance upon that body, and leave them to pursue such measures in this case as, in their wisdom, they may deem meet. I am, sir, with perfect respect,
WM. DUANE."

is guilty of a contempt of said order, and of this House,

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and that, for said contempt, he, the said Wm. Duane, be taken into the custody of the Sergeant-at-Arms attending this House, to be kept subject to the further orders of the Senate.

On motion, to agree to this first resolution reported, it passed in the affirmative—yeas 16, nays 12, as follows:

YEAS—Messrs. Dayton, Dexter, Foster, Goodhue, Greene, Hillhouse, Latimer, Laurance, Livermore, Lloyd, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAYS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Franklin, Langdon, Marshall, Mason, Nicholas, and Pinckney.

On motion, to strike out these words from the second resolution reported: "And all marshals, deputy marshals, and civil officers of the United States, and every other person, are hereby required to be aiding and assisting to you in the execution thereof:" it passed in the negative—yeas 10, nays 19, as follows:

YEAS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Franklin, Langdon, Mason, Nicholas, and Pinckney.

NAYS—Messrs. Bingham, Chipman, Dayton, Dexter, Foster, Goodhue, Greene, Hillhouse, Latimer, Laurance, Livermore, Lloyd, Marshall, Paine, Read, Ross, Schureman, Tracy, and Wells.

The second resolution reported was read as follows:

Resolved, That a warrant issue signed by the President of the Senate, in the following form, viz:

UNITED STATES, } ss.
The 27th day of March, 1800, }

Whereas the Senate of the United States, on the 18th day of March, 1800, then being in session in the city of Philadelphia, did resolve that a publication in the *General Advertiser*, or *Aurora*, a newspaper printed in the said city of Philadelphia, on Wednesday, the 19th day of February, then last past, contained assertions and pretended information respecting the Senate, and Committee of the Senate, and their proceedings, which were false, defamatory, scandalous, and malicious, tending to defame the Senate of the United States, and to bring them into contempt and disrepute, and to excite against them the hatred of the good people of the United States; and that the said publication was a high breach of the privileges of the House.

And whereas the Senate did then further resolve and order, that the said William Duane, resident in the said city, and editor of said newspaper should appear at the bar of the House, on Monday, the 24th day of March, instant, that he might then have opportunity to make any proper defence for his conduct in publishing the aforesaid false, defamatory, scandalous, and malicious assertions and pretended information.

And whereas the said William Duane did appear on said day at the bar of the House, pursuant to said order, and requested counsel; and the Senate, by their resolution of the 24th day of March, instant,

Resolved, That William Duane, having appeared at the bar of the Senate, and requested to be heard by counsel on the charge against him for a breach of privileges of the Senate, he be allowed the assistance of counsel while personally attending at the bar of the Senate, who might be heard in denial of any facts charged against said Duane, or in excuse and extenuation of his

offence, and that the said William Duane should attend at the bar of the Senate on Wednesday, then next, at 12 o'clock, of which the said Duane had due notice.

And whereas said William Duane, in contempt of the said last mentioned order, did neglect and refuse to appear at the bar of the said Senate, at the time specified therein; and the Senate of the United States, on the 27th day of March, instant, did thereupon resolve that the said William Duane was guilty of a contempt of said order and of the Senate, and that for said contempt he, the said William, should be taken into custody of the Sergeant-at-Arms attending the Senate, to be kept for their further orders. All which appears by the journals of the Senate of the United States, now in session in the said city of Philadelphia.

These are, therefore, to require you, James Mathers, Sergeant-at-Arms for the Senate of the United States, forthwith to take into your custody the body of the said William Duane, now resident in the said city of Philadelphia, and him safely to keep, subject to the further order of the Senate; and all marshals, deputy marshals, and civil officers, of the United States, and every other person, are hereby required to be aiding and assisting to you in the execution thereof; for which it shall be your sufficient warrant.

Given under my hand, this 27th day of March, 1800.

THOMAS JEFFERSON,
President of the Senate of the U. S.

On motion, to agree to this resolution, as reported, it passed in the affirmative—yeas 18, nays 11, as follows:

YEAS—Messrs. Bingham, Chipman, Dayton, Dexter, Foster, Goodhue, Greene, Hillhouse, Latimer, Laurance, Livermore, Lloyd, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAYS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Franklin, Langdon, Marshall, Mason, Nicholas, and Pinckney.

So the report of the committee was adopted.

The Senate resumed the second reading of the bill, sent from the House of Representatives, entitled "An act to establish an uniform system of bankruptcy throughout the United States."

On motion to agree to the third reading of the bill, it passed in the affirmative—yeas 17, nays 12, as follows:

YEAS—Messrs. Bingham, Chipman, Dayton, Dexter, Foster, Greene, Latimer, Laurance, Livermore, Lloyd, Marshall, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAYS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Franklin, Goodhue, Hillhouse, Langdon, Mason, Nicholas, and Pinckney.

So it was *Resolved*, That this bill pass to a third reading.

The Senate resumed the third reading of the bill prescribing the mode of deciding disputed elections of President and Vice President of the United States.

On motion to strike out the 7th section, as follows:

SEC. 7. *And be it further enacted*, That the Grand Committee shall have power to inquire, examine, decide, and report, upon the Constitutional qualifications of the persons voted for as President and Vice President of the United States; upon the Constitutional qualifications of the Electors appointed by the different States,

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and whether their appointment was authorized by the State Legislature or not, or made according to the mode prescribed by the Legislature; upon all petitions and exceptions against corrupt, illegal conduct of the Electors, or force, menaces, or improper means used to influence their votes; or against the truth of their returns, or the time, place, or manner, of giving their votes: *Provided always*, That no petition, or exception, shall be granted or allowed by the Grand Committee, which shall have for its object to draw into question the number of votes on which any Elector in any of the States shall have been declared appointed:

It passed in the affirmative—yeas 15, nays 12, as follows:

YEAS—Messrs. Chipman, Dayton, Dexter, Foster, Goodhue, Greene, Hillhouse, Latimer, Lloyd, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAYS—Messrs. Anderson, Bingham, Bloodworth, Cocke, Franklin, Langdon, Laurance, Livermore, Marshall, Mason, Nicholas, and Pinckney.

On motion to strike out the ten first sections, as stated in the motion of the 25th instant, it passed in the negative—yeas 10 nays 15, as follows:

YEAS—Messrs. Anderson, Baldwin, Bloodworth, Cocke, Franklin, Hillhouse, Langdon, Mason, Nicholas, and Pinckney.

NAYS—Messrs. Bingham, Chipman, Dayton, Dexter, Foster, Goodhue, Greene, Latimer, Lloyd, Paine, Read, Ross, Schureman, Tracy, and Wells.

And, after debate, the further consideration of this bill was postponed.

FRIDAY, March 28.

Mr. LIVERMORE, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to extend the privilege of obtaining patents for useful discoveries and inventions, to certain persons therein mentioned, and to enlarge and define the penalties for violating the rights of patentees, reported amendments.

Ordered, That they lie for consideration.

The bill, sent from the House of Representatives, entitled "An act to alter the form of certain oaths and affirmations, directed to be taken by the act, entitled 'An act providing for the second census or enumeration of the inhabitants of the United States,'" was read the second time, and referred to MESSRS. ROSS, PAINE, and BALDWIN, to consider and report thereon to the Senate.

Mr. LAURANCE, from the committee to whom was referred, on the 11th instant, the petition of Robinson and Hartshorne, and others, reported that the prayer of the petition is reasonable; and the report was adopted.

Ordered, That MESSRS. LAURANCE, LLOYD, and TRACY, be a committee to bring in a bill accordingly.

Ordered, That the committee appointed on the 17th instant, to bring in a bill, on the petition of Jeremiah Yellott, be discharged; and that the committee last mentioned do bring in a bill on the subject of his petition.

The bill, sent from the House of Representatives, entitled "An act to establish an uniform sys-

tem of bankruptcy throughout the United States," was read the third time.

On the question, to agree to the final passage of this bill, it passed in the affirmative—yeas 16, nays 12, as follows:

YEAS—Messrs. Bingham, Chipman, Dexter, Foster, Greene, Latimer, Laurance, Livermore, Lloyd, Marshall, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAYS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Franklin, Goodhue, Hillhouse, Langdon, Mason, Nicholas, and Pinckney.

So it was *Ordered*, That this bill pass.

A message from the House of Representatives informed the Senate that the House have passed a resolution, authorizing the President of the Senate and the Speaker of the House of Representatives to adjourn their respective Houses on the first Monday of May next.

The Senate took into consideration the resolution last brought up, from the House of Representatives, for concurrence.

Ordered, That the further consideration thereof be postponed until Friday, 4th of April next.

DISPUTED PRESIDENTIAL ELECTIONS.

The Senate resumed the consideration of the bill prescribing the mode of deciding disputed elections of President and Vice President of the United States.

Before the question was taken on the passage of the bill, Mr. PINCKNEY addressed the Chair as follows:

Mr. President: The question now before the Senate is on the passage of the bill. It having been understood as agreed, that we would reserve ourselves on its constitutionality until this period, I have some claim to expect your indulgence, while I review, not only that subject, but the principal features of the bill—while I endeavor to show that it is a serious invasion of some of the most important rights solemnly and explicitly reserved by the Constitution to the State Legislatures: that it is a bill more alarming in its consequences than even the alien or sedition law; because, however unfriendly I conceive those to have been in their principles and operation to the liberties of the people, yet after March next we are to hope nothing but the mournful reflection will remain that such laws have ever existed; while the act before you is to continue as a perpetual one, unlimited in its consequences and duration, and is to exist as a check or diminution of those important rights which, by the Constitution, are solely and exclusively vested in the State Legislatures, or under their direction, with the people, and with which Congress have no power to interfere, except in the manner I shall hereafter detail. I am indeed more anxious on this subject, as on many important points the majorities in the Senate were small, and as I well know the subject will excite very great public attention. The States and the State Legislatures will feel themselves particularly concerned, and I have some reason to suppose that such of those as I represent, and who are of my opinion, will expect from me a defence of what they consider as their just rights.

I will begin my remarks on this subject, by asserting that all powers not specifically given to Congress by the Constitution, are reserved to the States or the people respectively; that this is the base and principle of the Government; that without any express declaration on the subject, or any amendment to the original instrument, this is the construction we are obliged to give it; but that when we couple with this construction the 12th amendment, which the jealousy of the States insisted upon, there can be now no question, that in the language of that amendment, the powers not delegated to the United States, nor prohibited by the Constitution to the States, are reserved to the States respectively, or to the people.

It is of essential importance in examining this bill to recur to those amendments and the reason of their being adopted. This appears in the caption of the resolution recommending the amendments to the adoption of the States. It is in these words:

"The conventions of a number of States having, at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added; and as extending the ground of public confidence in the Government will best insure the beneficent end of its institution; therefore Congress, according to the Constitutional mode, recommended to the States to agree to, and their Legislatures did adopt, such of the amendments as are now officially directed to be annexed to the Constitution."

By this caption it appears that jealousies and suspicions existed in the States; that they were anxious to have some declaration of the principle of the system to be ascertained on the subjects of religion and the press, and the rights of the people, and the State Legislatures. They knew that parties would arise, and that as in all Governments unprincipled and designing men had existed, they saw no reason to expect that their own would be without them; they therefore determined that an explicit Constitutional declaration should be annexed, expressly stipulating that the powers not specifically delegated were reserved, and that the prohibitions and reservations mentioned in the amendments should be added, in the nature of a bill of rights.

When those amendments became a part of the Constitution, it is astonishing how much it reconciled the States to that measure; they considered themselves as secure in those points on which they were the most jealous; they supposed they had placed the hand of their own authority on the rights of religion and the press, and the as sacred right of the States in the election of the President; that they could with safety say to themselves, "On these subjects we are in future secure; we know what they mean and are at present; and such as they now are, such are they to remain, until altered by the authority of the people themselves—no inferior power can touch them. In our adorations to our Maker, our right to remark on public men and measures, and the exclusive right of the State Legislatures and people to elect the Supreme Executive, Congress have no authority to interfere. They

are not within the ordinary sphere of its legislation." I appeal to any man, who dispassionately peruses the Constitution and its amendments, and who recollects the mode and reasons of their adoption, to answer if this was not the construction then understood, and which now ought always to be given to them? It is the one I shall ever contend for, and it is on this ground I shall endeavor to show that Congress have no right to pass the bill before you, or to legislate at all further on the subject, than they have done by the act of 1792.

I suppose it will hardly yet be denied, that the people are the common fountain of authority to both the Federal and State Governments; that the Constitution reposes exclusively in the State Legislatures for the formation of a part of the Federal Government, and in the people for another part; and that in the appointment or formation of their part, the rights of the State Legislatures and people are exclusive: that the State Governments are the pillars upon which the Federal Government must rest, and that without a cordial and active performance of their duty, the latter could not proceed or exist. That, in the formation of the Federal Government, the people found that their safety consisted in giving certain exclusive rights to the State Legislatures, in the election of Senators and of their President—the first to insure to the State Governments their existence as such, and their equality in the second branch, and the other to make their Executive completely independent of the National Legislature.

In examining these exclusive rights, we will at once perceive that in the mode of voting for Senators, no other part of our Governments can interfere than our State Legislatures; if they neglect or refuse to elect, there is no power to compel them. The only authority to interfere is the Senate of the United States, and their power extends only to the determination whether a Senator is constitutionally qualified, or properly commissioned, and in discussing this neither the President nor House of Representatives can interfere.

With respect to the House of Representatives, for important reasons, there is a substantial difference. A right is in the first instance given to the State Legislatures, to establish regulations for their election, and in the same clause a right is given to Congress—not to the House of Representatives, but to Congress—not only to make regulations on the same subject, but to alter such as the State Legislatures have made; giving to Congress, in fact, a paramount authority, whenever they please, to regulate the elections of the House of Representatives in any manner they think proper. Let us for a moment compare this with the directions of the Constitution respecting the Electors of a President, and then permit me to call your attention to the remarkable difference there is between them, and the reasons for this difference.

By the Constitution, Electors of a President are to be chosen in the manner directed by the State Legislatures—this is all that is said. In case the State Legislatures refuse to make these directions there is no power to compel them; there is not a single word in the Constitution which can, by the

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most tortured construction, be extended to give Congress, or any branch or part of our Federal Government, a right to make or alter the State Legislatures' directions on this subject. The right to make these directions is complete and conclusive, subject to no control or revision, and placed entirely with them, for the best and most answerable reasons. It was intended to give your President the command of your forces, the disposal of all the honors and offices of your Government, the management of your foreign concerns, and the revision of your laws. Invested with these important powers, it was easily to be seen that the honor and interest of your Government required he should execute them with firmness and impartiality; that, to do this, he must be independent of the Legislature; that they must have no control over his election; that the only mode to prevent this was to give the exclusive direction to the State Legislatures in the mode of choosing Electors, who should be obliged to vote secretly; and that the vote should be taken in such manner, and on the same day, as to make it impossible for the different States to know who the Electors are for, or for improper domestic, or, what is of much more consequence, foreign influence and gold to interfere; that by doing this the President would really hold his office independent of the Legislature; that instead of being the creature, he would be the man of the people; that he would have to look to them, and to the confidence which he felt his own meritorious actions would inspire, for applause or subsequent appointments.

Instead of this, what is the mode proposed by this bill? That the Senate and House of Representatives of the United States shall each of them elect six members, who with a chairman, to be appointed by the latter from a nomination of the former, would form a *grand committee*, who should, sitting with *closed doors*, have a right to examine all the votes given by the Electors in the several States for President and Vice President, and all the memorials and petitions respecting them; and have power finally to decide respecting them, and to declare what votes of different States shall be rejected, and what admitted; and, in short, that this committee, thus chosen, and sitting with closed doors, shall possess complete, uncontrollable, and irrevocable power to decree, without appeal from their decision, who has been returned, and who shall be proclaimed President of the United States.

As long and as much as I have been accustomed to examine this bill, and consider its contents, I cannot recapitulate its objects and extent without new emotions of surprise. I am astonished that a measure so completely calculated to deprive the State Legislatures of their most important and exclusive rights in the election of the Chief Magistrate, should be at once brought forward, without paving the way by some milder preparatory measure, of the same tendency. It is true, the sedition law, by giving to the Federal Courts a power to decide on libels, a right which we contend belongs exclusively to the State Courts, and of which we think they cannot constitutionally be divested; and the untenable doctrine, avowed by the Federal

Judges, that there is a common law, such as is in force in Great Britain, common to the courts of the United States, may be considered as preparative. Had the people quietly acquiesced in these doctrines, and generally expressed no disapprobation of them, there might have been some reason to suppose they had determined silently to submit to everything, and even without a murmur put up with this diminution of the authority of the State Legislatures. But, when we recollect the unanswerable arguments that have been used throughout every part of the Union against them; when we see not only individuals but Legislatures of important States, using the mild and Constitutional mode of remonstrance and argument; when we have found not only the tables of the State Legislatures, but of Congress itself, covered with memorials against them, lamenting in the most affecting language their adoption and execution; I cannot, under these circumstances, suppose that we are authorized to believe the public mind so much under the influence of implicit confidence as to think that a measure which strikes so forcibly at the reserved rights of the States, can be received by them without particular emotions. It is my duty, however, to examine it with freedom, and this I shall do with candor and deference to other gentlemen's opinions, who differ from me on the subject.

Knowing that it was the intention of the Constitution to make the President completely independent of the Federal Legislature, I well remember it was the object, as it is at present not only the spirit but the letter of that instrument, to give to Congress no interference in, or control over the election of a President. It is made their duty to count over the votes in a convention of both Houses, and for the President of the Senate to declare who has the majority of the votes of the Electors so transmitted. It never was intended, nor could it have been safe, in the Constitution, to have given to Congress thus assembled in convention, the right to object to any vote, or even to question whether they were constitutionally or properly given. This right of determining on the manner in which the Electors shall vote; the inquiry into the qualifications, and the guards necessary to prevent disqualified or improper men voting, and to insure the votes being legally given, rests and is exclusively vested in the State Legislatures. If it is necessary to have guards against improper elections of Electors, and to institute tribunals to inquire into their qualifications, with the State Legislatures, and with them alone, rests the power to institute them, and they must exercise it. To give to Congress, even when assembled in convention, a right to reject or admit the votes of States, would have been so gross and dangerous an absurdity, as the framers of the Constitution never could have been guilty of. How could they expect, that in deciding on the election of a President, particularly where such election was strongly contested, that party spirit would not prevail, and govern every decision? Did they not know how easy it was to raise objections against the votes of particular elections, and that in determining

upon these, it was more than probable, the members would recollect their *sides*, their favorite candidate, and sometimes their own interests? Or must they not have supposed, that, in putting the ultimate and final decision of the Electors in Congress, who were to decide irrevocably and without appeal, they would render the President their creature, and prevent his assuming and exercising that independence in the performance of his duties upon which the safety and honor of the Government must forever rest?

But it is said, are Congress bound to receive every vote of an Elector, whether it is constitutionally given or not? Suppose votes are sent for a person not a citizen or fourteen years a resident of the United States; or under thirty-five years of age; or that the Legislature of a State has not authorized by their act the votes of the Electors, or that double returns are made: who are then to decide? Or has not Congress, under these circumstances, a power to determine which of the votes shall be received or rejected?

These being the avowed reasons for introducing this bill, I answer them by observing, that the Constitution having directed that Electors shall be appointed in the manner the Legislature of each State shall direct, it is to be taken as granted that the State Legislatures will perform their duties, and make such directions as that only qualified men shall be returned as Electors. The disqualifications against any citizen being an Elector, are very few indeed; they are two. The first, that no officer of the United States shall be an Elector; and the other, that no member of Congress shall. The first, an indispensable one, because every officer of the United States is nominated by the President, and (except Judges) removable at his pleasure. The latter, that no member of Congress shall, is a provision which goes unanswerably to prove the solidity of my objections to this bill, and to show how extremely guarded the Constitution is in preventing the members of Congress from having any agency in the election, except merely in counting the votes.

They well knew, that to give to the members of Congress a right to give votes in this election, or to decide upon them when given, was to destroy the independence of the Executive, and make him the creature of the Legislature. This therefore they have guarded against, and to insure experience and attachment to the country, they have determined that no man who is not a natural born citizen, or citizen at the adoption of the Constitution, of fourteen years residence, and thirty-five years of age, shall be eligible.

These are all the provisions in the Constitution, and being specifically defined and clearly marked out, where is the necessity of this bill? Is not the Constitution the supreme law of the land, and must not the State Legislatures conform their directions in the appointment of Electors to the directions of the Constitution? Have they not always determined, that persons qualified as the Constitution directs shall be chosen as Electors; and in the three elections which have taken place, has there been a single mistake or error in the vote?

Was not the last election as much contested as the ensuing, or any one can be, and were not the votes regularly given? Why this anxiety, why these unnecessary efforts to take from the State Legislatures their exclusive and most valuable right? Why should we be afraid that our citizens should be so forgetful of their safety, as to vote for men holding offices under the United States, or members of Congress; men who are not only disqualified, but who must, from their connexions with the Government, be always unsafe depositaries of this trust.

Who, when he reflects on the immense power the President possesses, can suppose that any man, honorably selected by his fellow-citizens as an Elector, could for a moment be so lost to a sense of his own and his country's welfare, as to vote for a man as the Supreme Executive, whose citizenship or residence were doubtful, and who were not of sufficient age? Gentlemen who support the bill have confessed they thought it improbable, and that it may not happen once in a century; but still they say it is possible, and ought to be guarded against. I consider both as so extremely improbable, that I am astonished they are mentioned. So far from having any apprehension of this sort, we may be assured that while the office of President is accompanied by so much power and patronage, while it is so honorable to its holder and influential to his friends, there can be no doubt that only such men will ever be spoken of, or even thought of or nominated as candidates, as are the most conspicuous for talents, and whose experience of our public affairs is generally acknowledged. Nor need we ever be afraid that in this country too young men will be brought forward as candidates. There is a jealousy against young men, or men not much advanced in years, which will forever forbid their being nominated for this office with much hope of success. Men do not like to see their juniors, or even those of the same ages, taking the lead, or being more conspicuous for talents or knowledge than themselves. They erroneously consider it as a reflection on their own deficiencies; they will therefore invariably unite in preferring a man much advanced in years, whose honors would occasion them no invidious sensations, and whose age and long employment in public life have accustomed them to his elevation. Regardless of his errors, or capacity to govern, they will more cordially unite in promoting him, than one whose rise they will consider as too rapid, and whose political exertions have given them pain. Be assured, sir, there can never be any fear of too young men being promoted to this situation. The danger is entirely on the other side of the question; that none but men too old will be brought forward; men whose minds have lost their energy, and whose age and infirmities render them incapable of sustaining the great and increasing weight of an important, and arduous situation.

To prevent, therefore, candidates of doubtful residence or citizenship, or under the requisite age, being elected as President, can never be sufficient reasons with the House for adopting this bill in the face of the Constitution, even if they had the

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power. I suppose there must be more weight in the other reasons, or they would not agree to it.

These are, that suppose a State Legislature should so far forget its duty, as not to pass some legislative act or resolution, directing the manner in which, within the proper time, Electors of a President should be elected, and the people should, notwithstanding, assemble and elect under a different authority; would the votes of the Electors, under these circumstances, be receivable? Or suppose that two different sets of Electors should insist that they were constitutionally elected, and that double returns should be transmitted, one certified by the Governor of the State, and the other not; which are to be received, and who is to have the power to decide to which the preference is to be given?

On this subject I am to remark, that the Constitution supposes a mutual confidence to exist between the Federal and State Governments; that not only in its formation, but in the strict and honorable performance of their relative duties, there will be the greatest punctuality and exactness; that neglect, and particularly refusal, on the part of either, must endanger the existence of both; and that until the case does actually arise, it is extremely impolitic in either to suspect it, and particularly to adopt measures in anticipation, on suspicions unsupported by proofs, to meet situations that have never yet occurred, or probably never will. That it ought to be a federal principle, and a rule with the Government, never to doubt the attachment of the States, in the performance of their Constitutional duties. That as they have hitherto regularly appointed Electors and Senators, and members of the other branch, that they will continue to do so, and cheerfully to contribute to the general expenses; that in return they will expect from the Government complete and adequate protection in their public and private rights, and a Constitutional attention to such as are explicitly reserved to the people and the State Legislatures. That they will govern themselves by the Constitution, and suffer no suspicions, jealousies, or unfounded reports, to hurry them into acts invading the State right. That, as it is so much the interest of the States to exercise their right in the election of a President, it is to be presumed that every State Legislature will seek with avidity each returning opportunity of doing so. That whatever they may surmise or threaten, that when the time arrives no few men will dare to oppose numerous and important States expressing their opinion, or giving their votes on so interesting an election; particularly where the opinion has been so recently and decidedly expressed on questions of the same political tendency. That there was no doubt of every State fairly and honorably voting, and of every Executive constitutionally discharging the duties of his station. That we had no more right to suppose, from what has hitherto happened, that an Executive or State Government would break the Constitution, than they had to think that Congress and the President would do so. That if the General Government went into measures to restrain or control the States in the exercise of their duties,

might it not unnecessarily give rise to a spirit of discord, destructive to the harmony which ought ever to exist between them? That, in every view in which the subject presents itself, it is certainly most wise to suffer things to remain as they are, and to be content with the regulations of the act of 1792, which go as far, and perhaps in one or two particulars of no importance, even farther than the Constitution warrants.

To show the extreme impropriety of adopting this bill, I will, for argument sake, suppose that there might be some irregularities in the votes of Electors, or even in the conduct of the Executive of a State on this subject; and ask, whether, even under these circumstances, it would not be safer and less injurious to the interests of the people, that these few irregular votes, if transmitted and certified by an Executive, should be received and counted, than that a new and unknown power like this should be created, under whose control not a few, but every vote that is given, must be reviewed, and received or rejected as they decree?

If the bill is not passed, we are to depend, as we have hitherto done, on the attachment of the States, and the good sense and integrity of their Executives. We have, particularly on the Executive of a State, the strong hold of public opinion. He will recollect that his character is at stake, and that if he suffers party views or private interest or resentment to govern his conduct, that he stands alone, and is individually responsible. That so far as respects his agency in the authentication of the election of the Electors, he has no body of men under the cover of whose advice he can shield himself; but that in case of misbehaviour, he must alone meet the public censure. That to deserve the confidence of his country, he ought never to submit to temporary expedients, or court the fleeting breath of popular applause; he must recollect what are his Constitutional duties, and to those, and those only, he must conform. That this has always been the conduct of the Executives of the States, and under that conduct we have been safe. That the Constitution makes this dependence on the States necessary, and as we have never yet been disappointed, we are to hope we never shall. But, surely, its friends never could have considered the extent and danger of giving to this committee, or even to Congress, the right to decide on double returns, or they must immediately have seen the extreme impropriety of attempting it. It is, in short, nothing less than holding out to the minority in all the States, a temptation to dispute every election, and to always bring forward double returns. In every State where the election is strongly contested, there will of course be a minority. It will be easily known by the measures of Congress, to which candidate the majority of that body inclines, and whose friends will compose the committee that are to be thus packed and selected. If a minority in a particular State find that the candidate they have unsuccessfully supported is the favorite one with the majority of Congress, or their committee, they will easily discover the means of raising objections to the validity of the return of the Electors, insist that they themselves are elected,

proceed to the length of meeting and voting, and transmit to Congress a double return.

It will not be difficult for them to accompany their return with plausible reasons, and perhaps with such unfounded assertions, and specious although false documents, as to give to the committee some colorable reason for rejecting the return of the Electors, certified by the Governor, and admitting the other. Knowing the situation of the Union; how differently some States think from others on political questions; how divided Congress have been for some years, on certain great and trying subjects; who that is a friend to harmony and the Constitution, and to that easy, tranquil mode of deciding these elections which has hitherto prevailed, can wish to go into a measure so calculated to produce unceasing disputes, and to throw almost every State into scenes which can never arise but from this bill?

Can there be any one who would thus hazard the reserved rights of the State Legislatures and the people, and commit them to a body unknown to and unauthorized by the Constitution? Why should we suppose that the Congresses which have preceded us did not understand this subject as well as we do, or any that may succeed us?

In 1792, being the first time the exercise of this power was necessary, Congress passed a law, entitled "An act relative to the election of President and Vice President," &c., directing how the States should appoint Electors for the election; that they should meet and vote; that they should sign three certificates of all the votes given; directing how the votes should be disposed of; detailing the duty of the Executive of each State in certifying the lists of Electors chosen; of the Secretary of State on the non-receipt of votes; that Congress shall always be in session on the second Wednesday in February in every fourth year, for the purpose of opening and counting the votes, and declaring a President elected agreeably to the Constitution; ascertaining the duties, allowances to, and penalties on persons sent with the votes; and making provision in case of the death of both President and Vice President, or their refusal to serve, and fixing the time when their service commences.

It is very important in deciding on the bill before you, to peruse this act with great attention; to recollect by whom, and when, and under what circumstances, it was made. This law was passed in 1792, when a number of able and well informed men, who have been since appointed to some of your most respectable situations at home and abroad, and many who have voluntarily retired with deserved and well-earned honor to private life, filled the seats of both Houses of Congress: when the Executive authority was held by Gen. WASHINGTON, for whom your whole nation at present mourns; by him who had no rival in the public affection, whose honors no man envied, and whose re-election to office as long as he pleased, he well knew, would always have been without contest; in him was placed the revision of your laws. And here, sir, let me ask, whether from a Congress thus ably formed, and from an Executive thus discerning and independent, as much

knowledge of the Constitution, its precise directions, and the agency it intended Congress to have in the counting the votes and declaring the President, were not to have been expected, as from the present? Were not the then Executive, and a number of the members of both Houses, members of the Convention which framed the Constitution; and if it intended to give to Congress, or to authorize them to delegate to a committee of their body, powers contemplated by this bill, could the Congress or the President of 1792, have been so extremely uninformed, and indeed ignorant of its meaning and of their duty, as not to have known it? I have heard many motions and measures which have been introduced here, termed as intended reflections on the present President; but surely no more severe reflections on the mistakes or ignorance of the Congress and President of that day can be passed than this bill. It will exhibit to the world our decided opinion, that they were both ignorant of the powers of their respective departments, and both neglected to declare and assert them. An impartial public will, however, feel themselves interested on this very important occasion to recollect the circumstances under which the act of 1792 was passed, and those under which the present attempt has been made, and upon comparing them, to examine and decide for themselves. They will find, that in that year they possessed as able and independent a Congress as they can ever reasonably expect to see again; that they were then in perfect peace; no treaty had been made with Britain, or alliance dissolved with France; no depredations vexed their commerce; no improper partialities for contending nations divided their councils; respecting and alike respected by the whole family of the civilized world, their country was the residence of peace and industry, and the asylum of the oppressed of every nation. Their Constitution was universally admired; it was drawing to them a great share of wealth, the arts and information of Europe: no rival candidates contended for the chair, it was filled by him who had no opponent, and who was in the succeeding year again unanimously summoned to occupy it. Under circumstances so favorable to the impartial exercise of those legislative duties, will not our citizens be inclined to suppose that the act of 1792 was a proper one, and that there was more probability of its provisions being in a temperate and unbiassed conformity to the Constitution, than any act which could be passed at this time? A time when no man can say we are at peace, or that our commerce is free from depredations; or that strong contending parties do not divide our councils and citizens, as well with respect to foreign politics, as to him who is hereafter to fill the Executive department; a time, when it is out of the question not to suppose that each party will use every means to secure their favorite object.

If, after comparing these circumstances, our citizens should carefully peruse the express directions of the Constitution, they will have but little doubt to which act to give the preference, as the proper and Constitutional one. By viewing the 1st sec-

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tion of the 2d article of the Constitution, it is to be seen, that on the day fixed by law, which is the second Wednesday in February, the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes shall be President, if such number be a majority of the whole number of Electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then, the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then, from the five highest on the list, the said House shall in like manner choose the President. From this part of the Constitution it is evident that no power or authority is given to Congress, even when both Houses are assembled in convention, further than to open and count the votes, and declare who are the President and Vice President, if an election has been made; but that in case no election is made by the Electors, or no candidate has a majority, then the House of Representatives are (voting by States) immediately to choose, out of the five highest on the list, the President, &c.

In order that every man may understand what is here meant by the Constitution, and what is its express *directions* and *letter* as to this election, let us examine what is the literal meaning of the word *immediately*, and why it was introduced here. The best and most generally admired expounders of the English language, give this explanation of the word *immediately*; they say it means "instantly"—at the present time—without delay. This is the meaning the framers of the Constitution intended to give it, and it admits of no other. The plain, express, literal direction of that instrument therefore is, that in case of no election, the House of Representatives, voting by States, are *immediately*, that is instantly, and on the spot, without leaving the House in which they are then assembled, and without adjournment, to choose, out of the five highest candidates that have been voted for by the Electors, the one who is to be the Executive.

The reasons for this immediate election are, in my judgment, unanswerable; they show very clearly the foresight and caution of the Convention, and, if not strictly attended to, may be productive of the most serious calamities to our country. The reasons are these: that from our rapidly increasing strength and commerce, from the enterprise of our citizens, and our particular maritime situation as it respects the West Indies, South America, and the Powers having possessions in both, it was easily to be seen, that in any conflict between these Powers, our friendship or hospitality must be of the greatest importance; that they therefore would never cease to interfere in our politics and endeavor to direct them in the manner most suitable to their own interests; that from the difficulty of influencing so large a body as Congress, and from the immense power of the President, not only over the laws, but foreign connexions of the Union, that their principal effort would be always to have one

of their own friends chosen; and to effect this, no influence would be left untried. To prevent this therefore, and to make the Executive independent of Congress, the election has been given exclusively to the States, under the direction of the State Legislatures. If an election is made by the Electors, and subject to no future control or revision on the part of Congress, then the end intended by the Constitution, of preventing the interference of foreign influence, is completely answered: for, elected as they are, and voting as the Electors must, the interference of foreign gold, or influence, is impossible. But it was to be supposed, that instances would occur, where two candidates, having a majority, may be equal in their number of votes; or where no candidate had a majority of the whole of the Electors appointed, and an election must take place by the National Legislature, or a branch of it; the question then arose, how was this election to be guarded to prevent, as far as human prudence could, improper domestic combinations, or, what is infinitely worse, foreign interference? It was a difficult thing, and required much deliberation. The Constitution directs that the Electors shall vote *by ballot*, and seal up and transmit their votes to the President of the Senate. It is expected and required by the Constitution, that the votes shall be secret and unknown, until opened in the presence of both Houses. To suffer them to be known, as heretofore, has been the practice, is unconstitutional and dangerous, and goes to defeat in some measure, the wise provisions of that instrument, in declaring, that when the House of Representatives are to elect, that it shall be done immediately. The Electors, therefore, ought never to divulge their votes. The votes being thus unknown, it would be impossible in most instances to say who were elected or who had the five highest numbers on the list. The leaders of domestic intrigue and foreign emissaries would be at a loss how to direct their influence, and the election by the House of Representatives taking place immediately after the votes have been opened and counted, that body would go to the election free and uninfluenced, as they ought. And is not this, sir, safer; is it not better than that the smallest delay should take place in determining it? You are to choose, out of the five highest candidates on the list of the Electors' votes; it never can be supposed, that men thus deliberately chosen as Electors, would vote for any but the most distinguished amongst our citizens, or point the attention of the public, or of the House of Representatives, to obscure or improper characters. The five having the highest number of votes, will all be such men as that either of them, if chosen, will be well qualified to fill the office; and it will be less dangerous to the public interest, that even one who may not be the most qualified of the five, should be elected, than that Congress should adjourn to deliberate on it, and thus expose themselves, and the best interests of their constituents, to the secret and artful attacks that will be made on their integrity.

It is to be remembered, that around the seat of Congress will be placed all the open and accredited Ministers, as well as secret emissaries, of foreign

Powers. Here too will be assembled the concealed leaders of domestic faction; all the arts and intrigues that have been used in Elective Governments in the Old World, will soon find their way among us; and if the Electors do not conceal their votes until the day appointed by law for opening them, and in case of no election by them, an immediate one by the House of Representatives does not take place, we shall soon have the scenes of Polish Diets and elections re-acted here, and in not many years the fate of Poland may be that of United America.

Wisely foreseeing this, the Constitution expressly orders that the Electors shall vote by ballot; and we all know, that to vote by ballot is to vote secretly; that the votes shall be sealed up, and not opened until the day appointed by law, and that if no election has been made by the Electors, an immediate one shall take place by the House of Representatives; that so far from appointing committees to receive memorials or petitions respecting the election, or decide upon it, or so far from having any right to delegate an authority on this subject, that Congress shall not themselves, even when in convention, have the smallest power to decide on a single vote; that they shall not have authority to adjourn for one moment, but shall instantly and on the spot, in case of no election by the Electors, proceed to the choice of a President, and not separate until it is determined.

I have intentionally gone into repetitions on this subject, in order to impress on the House the full meaning and intent of the word *immediately*; and to show how utterly unconstitutional it would be for Congress, either acting in their separate chambers or in convention, to attempt to assume to themselves the power to reject a single vote; and how inadmissible must be the idea that they could delegate it to a small packed committee, chosen by the prevailing majorities in both Houses, and sitting with closed doors, authorized irrevocably to decree who shall be proclaimed President; a committee not even to be appointed by lot, as was proposed, in imitation of the election committee of Great Britain—a measure which might have had the appearance of giving to the friends of all the candidates some chance of being on it; not limited, as was afterwards moved, in imitation of that part of the Constitution which respects the making of treaties, to the number of two-thirds being necessary for every decision; but to a committee, chosen by the majorities of both Houses, just as their own political opinions and prejudices shall prompt.

Extraordinary and unconstitutional as this mode of choosing a committee must appear, and new and unknown as are the powers intended to be given to it, perhaps no part of the bill strikes us with more astonishment, than that the deliberations on all these great and important questions are to be in secret, and that the committee are to sit with *closed doors*. We have hitherto been taught to believe, that only on Executive business, or communications deemed by the Executive of either branch to be of a secret nature, that our citizens were to be denied the right of being present

if they please; but that on all legislative subjects, most particularly on all questions respecting elections, the deliberations of the body who are to have power finally to decide, must, from the nature of our Government, be open and uncovered.

I have heard that at a time when upon all other questions the doors of the Senate were shut, yet that when the right of a Senator to keep his seat was discussed, they were ordered to be thrown open. If then, on a subject in which the rights of a single State Legislature were investigated, you deemed it proper the debates and decisions should be in public, how much more important is it that every eye should be entitled to inspect the conduct, and every ear to listen to the decisions of a body, on whose decree, without appeal, are to depend the rights of every Legislature in the Union? Can it be supposed that this extraordinary measure will meet the public approbation? Can we be ignorant of the jealous temper of our citizens, their general information, and their persevering and laudable endeavors to be acquainted with our measures? Do we not suppose that the State Legislatures will feel particularly alive on this subject, and that they who by their perseverance have formerly unbarred the doors of the Senate, and opened your legislative deliberations to the public view, will scarcely suppose that an investigation so much more important than any legislative act, should be veiled from a jealous inspection? Will they not remember, that in all contested elections of members of either House, the debates are in public; and by concealing these, will it not be a reason with them to believe you doubt your right to act at all? If upon elections in a State Legislature, or the National one, petitioners have a right to be heard openly and by counsel, ought not the same right to exist in an election where all the Legislatures and all the people are concerned? It is no answer, or no reason for sitting with closed doors, to say that the testimony is to be entered in writing on the journals of the committee, and the members are to enter their reasons and sign them for rejecting a vote. It is not to know the result of their deliberations, or what laws they pass, that creates the necessity for deliberative bodies in free countries sitting with open doors; it is, that the public eye may be constantly upon them; that all their movements may be seen, and all opinions they give on public questions or in debate carefully attended to. When a single member in the House of Representatives may represent the interests of above thirty thousand citizens, and in the Senate upwards of hundreds of thousands, or where a committee of thirteen are to decide on the election of the officer who is to preside over upwards of five millions of people, most surely every opinion and every motion of each member should be strictly scrutinized. If ever there could be good reasons for opening the deliberations of any assembly of men to the public view, they must apply with redoubled force to this; if ever the opinions, or steadiness, or integrity of a body should be vigilantly attended to, it must be of one who are to possess full and irrevocable power to reject or receive the votes of the Electors as they

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please, and finally, to decide. It is a power too important to be exercised in the dark; it is contrary to what ought to be the practice of every Government, whose pride it should be to invite the investigation of their constituents, and, instead of retiring from the public eye, to wish "that there was a window in its bosom."

It is among the precepts of our religion, that we should continually pray not to be led into temptation: to avoid being tempted to do improper things, would be an excellent rule with public bodies, as well as with individuals; many private crimes would be prevented, and many indiscreet and unconstitutional public acts not even thought of. Self-interest or revenge are sometimes so powerful incentives, that temptations to pursue the one or gratify the other are frequently not to be resisted. To no public body has ever a stronger temptation been held out, than this bill offers to the House of Representatives. If the election by the Electors can be destroyed by any means, the Constitution gives to that House the election of the President; if, therefore, their favorite candidate has not the majority of votes, but come so near, that the rejecting a few of the rival's votes will prevent an election and bring it to their House, how easy is it for them to elect six members, whose opinions they have previously known, and that Senator out of the three nominated by the Senate whom they can most depend upon, as fitted for their purpose, and with these to destroy the election, and assume to themselves the power of deciding who is to be your Supreme Executive? Considering the influence and authority of this officer, how much he will have it in his power to reward such tried friends as these, friends who have proved themselves so valuable to him as to have set aside the election of his opponent, who ought to have been the successful candidate, and placed himself in the Chair, I ask, if it is not a temptation too great to offer to any single body, like the House of Representatives?

And if the Constitution, by the most sacred construction, had ever permitted or intended such an event, whether it would have deserved the encomiums it has hitherto received? Whether, instead of having a really independent Executive, chosen under the direction of the State Legislatures, in a manner to prevent the influence of foreign gold, or domestic faction, whose election, in order that he may be firm in the exercise of his revisionary power, and honest in the disposition of the public honors, was not to be subject to the control or interference of Congress; one who could be really called the *man of the people*, and on whom they could depend: whether, instead of having an officer like this, you would not have a *fettered, dependent creature of the Legislature*, the production of their little packed committee, a *thing* with a chain on his pen, and a curb in his mouth, that could neither write, speak, or even sign his name, but at the will of his creator; and whether *this thing*, when presented, however he might be called and obeyed, would deserve to be considered such a President of the United States as the Constitution intended?

I now come to a part of the bill, on which, should

it become a law, it appears to me that insuperable difficulties would arise, and this is the section which respects *testimony*. By the 13th section it is said, that persons petitioning against the votes given by any of the Electors of President or Vice President of the United States, and persons desirous of supporting such contested votes, may respectively obtain testimony in the same manner, and under the same rules and regulations, which are provided by the act, entitled "an act to prescribe the mode of taking evidence in cases of contested elections for members of the House of Representatives of the United States, and to compel the attendance of witnesses." And the rules, regulations, and penalties of the said act, are and shall be extended to cases arising under this act, as fully as if the same were herein fully recited and enacted.

By the act to which this alludes, any Judge of the Courts of the United States or of a State, or, if they cannot be conveniently obtained, two justices of the peace, are, on application of the parties contesting elections, to issue a warrant or summons to witnesses, to attend at some convenient time and place; if they are not at their usual place of residence, service of a copy is sufficient; and for non-attendance the fine is only twenty dollars. The party whose election is opposed, is to be served with notice of this intended opposition, and of the time and place when these witnesses are to be examined. If it is said he was not at home, proof of a copy of the notification being left is sufficient, and the judge or justices are to proceed, *ex parte*, to take the testimony. It does not appear by the most attentive perusal of the act, that the officers or persons who are to serve the notice are to depend on the judge or justices, or known public officers: but may be any persons the party opposing the election may choose; they may be some of his own particular friends or dependents, or persons he can direct as he pleases.

In examining this act, we must immediately perceive that it is extremely defective, even as it respects the election of members of the House of Representatives; but that should it ever be relied upon in the decision of the election of a President of the United States, and the choice of this important officer, this intended man of the people, was to depend upon the testimony, which, under the cover of this act, fraud, or force, or bribery, might produce, the evils to this country would be monstrous indeed.

By this act we are prevented from the *viva voce* examination of witnesses before Congress or the committee; that examination which, on the trial of the meanest culprit and for the smallest offence, your just and equitable laws render indispensable; that mode which allows you to look a witness steadily in the face, to view in it the calmness of conscious innocence, or the agitation of falsehood and the fear of detection; in the presence of an anxious and inquiring public to probe his statements to the bottom, and if they are false to confront him with the truth. How far superior, sir, is this, to the regulations of the act, where examinations are to be taken by commission, in a manner

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that must for ever open a door for the grossest impositions. If a judge of some superior or inferior court is not to be conveniently found—and in the interior and frontier parts of a number of the States this will frequently be the case—the whole management of this business is to depend upon two justices of the peace, who are to issue the warrant or summons, and examine and reduce the testimony to writing and transmit it to the seat of Government. I trust I shall be believed when I say, that few men have, indeed that no man has, a higher respect or affection for the people of the United States than I have; that I believe them to be the most immaculate, and easily governed, and at the same time the best intentioned people in the world. I cannot therefore be suspected of the most distant reflection, in supposing that in some of the States, where objections may be made to the elections or qualifications of Electors, and it may by this bill be necessary to take testimony, that some judge, or chancellor, or justice of the peace, may be found, who may not be men of good character, or men of sufficient knowledge or technical skill to be entrusted with the taking of the testimony, or the cross-examination of witnesses, on whose assertions may depend so important an election. Recollecting that there are some thousands of judges, chancellors and justices of the peace, resident in so extensive and populous a country as the United States, it would be wonderful indeed, if some of them were not men of letters, or not sufficiently informed to manage so difficult and delicate an examination as this is, with sufficient acuteness and ability; but if we extend the idea, and suppose that amidst so numerous a body of men it is possible some of them may be tampered with, and made subservient to the purposes of party, to reduce testimony to writing in a mangled or partial manner, to omit or add, as they may be tempted, the alarming consequences that might flow from their misconduct scarcely need to be mentioned; they must strike the most superficial observer. How easy, too, is it under this act, for the contesting party to employ dependents of his own, who may so manage the transmission or delivery of the notices, as that the Elector, or person whose qualifications or election is contested, may not receive them at all, or receive them so late as to make his appearance in time before the justices impossible? In short, if we view the difficulties that must attend the attempt to obtain testimony on this subject that can be at all depended upon, the door that it will open to bribery, and perjury, and fraud of every description, it must at once appear that the Constitution could never have contemplated giving Congress any authority on the subject. They knew it was impossible, from the great distance of some of the States, that *viva voce* examinations could take place before that body; that on this occasion all others were inadmissible; they therefore determined, that the inquiry into the election and qualifications of the Electors, and the constitutionality of their votes, should be given to and rest exclusively with the State Legislatures; and that the certificate of the Executive of a State, of the Electors appointed,

and the votes of such Electors regularly transmitted, must be received and counted. If this was not to be the case, and the bill before you was to become law, as you have now determined that the 7th section should be struck out, and that the committee shall have power, finally, to decide without restrictions, I wish to be informed, where are the committee to stop their inquiries? In States where the Electors are chosen by a general vote, or by districts, and where thousands of voters may ballot for a candidate, are the committee to examine into the return of every Elector, and into the qualifications of every vote? Or in others, where the Electors are chosen by the Legislature, are the committee to inquire into the legality of the return of every member of a State Legislature? Or how is it possible for this committee, or for Congress itself, either to have the time or means to make these inquiries, so as to be able to determine with exactness, or with justice to the parties?

But let us suppose that this committee, or even Congress itself, are determined to exercise this power, and should receive memorials and petitions, and collect testimony, and should be of opinion that one or more Electors of a State have not been duly elected, or are not constitutionally qualified; how are Congress then to proceed to find how these unduly or disqualified Electors voted, particularly if they should belong to a State having a number of Electors? As the Constitution directs they are to vote by ballot, the votes of the election ought to be secret. You have no right to require from an Elector how he voted, nor will you be able to know for whom he did vote, particularly if in the return from that State different candidates have been voted for. In this dilemma, I ask, what is to be done? You cannot discover for whom this disqualified or improperly returned Elector voted; and you would not certainly, in a State having sixteen or twenty-one votes, reject the whole, because one or two illegal votes have been supposed to be given.

From the most attentive consideration of this part of the subject, I believe no satisfactory answer can ever be given to the question I ask; that the objection I have stated can never be removed; that if there was no other good reason for supposing the Constitution did not intend to give to Congress any control or examination into the election, this of itself is sufficient, and proves the wisdom of that instrument's vesting it exclusively in the State Legislatures.

Another serious objection to this bill, or to the exercise of this power, either by Congress or a committee, is, that the Executives of the States and the State Legislatures are equally bound with Congress, by oath, "to support the Constitution;" it is an oath they all take at the commencement of each new Legislature. If therefore a number of the Legislatures of the most important States in the Union should be of opinion, with me, that this is a right exclusively vested in them by the Constitution, which they have solemnly sworn to preserve, and that consistently with their oaths they cannot quietly acquiesce in a diminution of it, or

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suffer any invasion by a body having no Constitutional authority to interfere, might not such sentiments, firmly expressed and adhered to, unnecessarily give rise to a conflict of opinions, at least, that had better always be avoided? We know the force of religious opinions in this country, and how tenaciously oaths are in general adhered to; and surely, nothing but some strong and pressing necessity could ever excuse, if anything can excuse, an interference on so delicate a subject. And where, sir, is this necessity at present? Have not the States, and their Legislatures and Executives, always punctually and faithfully executed every duty the Constitution required of them? Have you any documents before you to prove some of them mean to misbehave, or any proofs to justify your adopting a measure of this kind? Are the opinions of individuals, or perhaps unfounded anonymous publications, to precipitate you into differences with the States, at a time when harmony is so essential to our general welfare? Do you recollect the contests that are now prevailing in the Old World on the subject of Government and its principles, and how important it is to us to avoid a clashing of opinions between Congress and the States on the subject of their reserved rights, at a time when not only this but every Constitutional principle should be touched with the greatest delicacy? We should recollect that it is also highly necessary at this time to impress our citizens with the most favorable opinions of the integrity of the Government, particularly as it respects the election of their President; they now know that chosen by Electors, elected under the exclusive direction of the State Legislatures, within only a short time of the election, and voting on one day throughout the Union, it is impossible for foreign or domestic gold, or factions, to influence the election; as it stands now, corruption must ever keep at a distance; it can never assail your Electors, or sully the purity of their choice. Give, however, the power of deciding on their votes, and of rejecting or receiving them, as they please, to thirteen men, all of the same political description, all wishing the same men, sitting with closed doors, and whose deliberations are removed from the public eye, and you will find it difficult to avoid just suspicion; your jealous citizens will remember that secrecy always accompanies corruption, and that even if this committee were to act in the most honorable manner, yet still that the friends of the candidate whose votes have been refused, if such refusal cost him his election, will never cease to suspect that all has not been fair, and that some improper reason had influenced the decision. I could urge a variety of other objections against this bill; but I am afraid I have already too long trespassed on your patience. I will therefore here conclude my remarks, with entreating the House not to destroy the beautiful harmony and safety which the Constitution at present insures, both to the States and the General Government; a safety which must depend on a strict adherence to its principles, and to the judicious distribution of its authorities; that while the States are wisely prohibited from interfering with

those really national powers which can alone be safely exercised by the General Government, for the purposes of national defence and protection, that Government is in its turn checked from overstepping the boundaries of the Constitution, by the reserved powers to the States and the people, and by their exclusive rights of election, as I have fully stated to you. Instead of injuring, let it be our care to preserve unimpaired this valuable system. I should be sorry that any part of the Government should be chargeable with a wish to violate it; but feeling, as we must always do, a particular affection for that branch of it to which we belong, I should be extremely sorry indeed that this bill should pass the Senate.

Let us remember that the election is intended by the Constitution, once in every four years, as an appeal to the people for their opinions respecting the preceding Administration. If the conduct of the Executive has been wise, disinterested, and impartial, there can be no doubt that the good sense and virtue of our citizens will continue him in office, or, if he wishes to decline, elect a successor of similar principles. On the contrary, if he has not proved himself able and judicious, and the measures of his Administration do not accord with the public sentiment, they will have an opportunity, mildly and gently, through the force of the elective principle, to remove him, and place in his stead some man of different political conduct and opinions. This appeal, however, can never be fairly and independently made to the people, if Congress are to have the smallest control or revision of the election, because, the majority of them must always be intimately connected with the measures of Administration. The President can never proceed without the support of Congress; their approbation must sanction all the laws and all the supplies which his views have occasioned; and the people, in expressing by the election their sentiments of the conduct of the Executive, must, at the same time, necessarily give an opinion on that of the Legislature. This is another reason for rejecting the bill; and as it appears, since the 7th section has been struck out, several gentlemen have altered their opinions, I am not without hopes, when the question is taken, we shall find ourselves in a majority, that it will not pass, and that the exclusive rights of the State Legislatures will be preserved inviolate.

When Mr. P. had concluded, the question was taken on the passage of the bill, and it was determined in the affirmative — yeas 16 nays 12, as follows:

YEAS—Messrs. Bingham, Chipman, Dayton, Dexter, Foster, Goodhue, Greene, Hillhouse, Latimer, Lloyd, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAYS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Franklin, Langdon, Livermore, Marshall, Mason, Nicholas, and Pinckney.

So it was *Resolved*, That this bill pass, that it be engrossed, and that the title thereof be "An act prescribing the mode of deciding disputed elections of President and Vice President of the United States."

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MONDAY, March 31.

Mr. LANGDON, from the committee to whom was referred the bill authorizing Seth Harding to locate certain lands in the Territory of the United States Northwest of the river Ohio, reported amendments; which were read.

Ordered, That they lie for consideration.

Mr. TRACY, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to discharge Robert Sturgeon from his imprisonment," again reported the amendment; which was read and adopted.

Resolved, That this bill pass as amended.

Mr. TRACY, from the committee to whom was referred the bill for the relief of Ithamar Canfield, reported the bill with an amendment.

Ordered, That this bill pass to the third reading as amended.

The Senate resumed the second reading of the bill, sent from the House of Representatives, entitled "An act to continue in force 'An act concerning certain fisheries of the United States, and for the regulation and government of the fishermen employed therein, and for other purposes, as therein mentioned.'"

Ordered, That this bill pass to the third reading.

Mr. TRACY, from the committee to whom was referred the bill further to amend the act, entitled "An act to establish the Judicial Courts of the United States," reported the bill without amendment.

The Senate resumed the second reading of the bill, sent from the House of Representatives, entitled "An act to prevent the interference of any military force in certain elections."

Ordered, That the further consideration thereof be postponed until to-morrow.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to extend the privilege of franking letters and packages to Martha Washington;" a bill, entitled "An act fixing the rank and pay of the commanding officer of the corps of marines;" and a bill, entitled "An act to divide the Territory of the United States Northwest of the Ohio into two separate governments;" in which they desire the concurrence of the Senate.

The bills were read and ordered to the second reading.

The Senate resumed the second reading of the bill, sent from the House of Representatives, entitled "An act for the relief of Thomas Arnold;" and on the question to agree to the third reading of this bill, it passed in the negative.

So the bill was lost.

The Senate took into consideration the report of the committee to whom was referred the Message of the President of the United States of the 8th day of January last, together with the report of the Director of the Mint, of the first of the said month, and, after debate,

Ordered, That the further consideration of the said reports be postponed until Wednesday next.

TUESDAY, April 1.

The bill, sent from the House of Representatives entitled "An act to extend the privilege of franking letters and packages to Martha Washington," was read the second time; and, by unanimous consent, it was read the third time and passed.

The bill, sent from the House of Representatives, entitled "An act to divide the Territory of the United States Northwest of the Ohio into two separate governments," was read the second time and referred to Messrs. BROWN, ROSS, and GUNN, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act fixing the rank and pay of the commanding officer of the corps of marines," was read the second time and referred to Messrs. GUNN, DAYTON, and BINGHAM, to consider and report thereon to the Senate.

The Senate took into consideration the amendments reported by the committee to the bill authorizing Seth Harding to locate certain lands in the Territory of the United States Northwest of the river Ohio.

Ordered, That the further consideration thereof be postponed until Wednesday, the 9th inst.

A message from the House of Representatives, informed the Senate that the House have passed a "Resolution respecting the copper mines on the south side of Lake Superior," in which they desire the concurrence of the Senate.

The bill for the relief of Ithamar Canfield was read the third time and passed.

The bill, sent from the House of Representatives, entitled "An act to continue in force an act concerning certain fisheries of the United States, and for the regulation and government of the fishermen employed therein, and for the purposes therein mentioned," was read the third time; and, being amended,

Ordered, That the further consideration thereof be postponed.

Ordered, That the Secretary of the Treasury be directed to lay before the Senate the amount of duty collected upon salt imported into the States of the Union, severally and annually, from 1793 to 1798, both inclusively; and, also, the amount of allowances made to fishing vessels, and drawbacks allowed to the exportation of salted provisions and pickled fish, in those States, annually, during that period.

Mr. MASON, notified the Senate that he would, to-morrow, ask leave to bring in a bill to amend the act, entitled "An act for the better organizing of the troops of the United States, and for other purposes."

WEDNESDAY, April 2.

Mr. BINGHAM, from the managers at the conference on the amendments to the bill, entitled "An act to allow a drawback of duties on goods exported to New Orleans, and therein to amend the act, entitled 'An act to regulate the collection of duties on imports and tonnage,'" made report.

Mr. GOODHUE, from the committee to whom was referred the bill, sent from the House of Rep-

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representatives, entitled "An act for the relief of John Collet," reported the bill without amendment.

Agreeably to the order of the day, the Senate resumed the consideration of the report of the committee to whom was referred the Message of the President of the United States of the 8th of January last, together with the report of the Director of the Mint of the first of the said month; and, after debate, it was ordered that the further consideration thereof be postponed.

Ordered, That a committee be appointed to examine the Mint Establishment of the United States, and the operation thereof, and report to the Senate what reform may, in their opinion, be requisite in the same, and whether it will be proper to remove the Mint to the city of Washington; with liberty to report by bill or otherwise; and that Messrs. HILLHOUSE, GOODHUE, and LIVERMORE, be the committee.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act providing for the sale of the lands of the United States in the Territory Northwest of the Ohio, and above the mouth of Kentucky river," in which they desire the concurrence of the Senate. They recede from their disagreement to the amendments of the Senate to the bill, entitled "An act to allow a drawback of duties on goods exported to New Orleans, and therein to amend the act, entitled 'An act to regulate the collection of duties on imports and tonnage,'" and agree thereto, with an amendment to their second amendment, in which they desire the concurrence of the Senate.

The Senate took into consideration the amendment to the bill last mentioned.

Resolved, That they do concur therein.

The bill first mentioned in the message was read and ordered to the second reading.

Agreeably to notice given yesterday, Mr. MASON asked leave to bring in a bill to amend the act, entitled "An act for the better organizing the troops of the United States, and for other purposes;" and, on the question to give leave, it passed in the negative.

Mr. TRACY, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to establish a general stamp office," reported the bill with amendments; which were read.

Ordered, That they lie for consideration.

Mr. MASON notified the Senate that he should, to-morrow, ask leave to bring in a bill supplementary to the act to suspend part of an act, entitled "An act to augment the Army of the United States, and for other purposes."

THURSDAY, April 3.

The bill, sent from the House of Representatives, entitled "An act to amend the act, entitled 'An act providing for the sale of the lands of the United States in the Territory Northwest of the Ohio, and above the mouth of Kentucky river,'" was read the second time and referred to Messrs. Ross,

BROWN, and MARSHALL, to consider and report thereon to the Senate.

Mr. GREENE, from the committee to whom was referred the bill, sent from the House of Representatives entitled "An act for the relief of the Corporation of Rhode Island College," reported the bill without amendment.

The Senate resumed the second reading of the bill, sent from the House of Representatives, entitled "An act respecting the Mint."

Ordered, That it pass to the third reading.

The Senate took into consideration the amendments reported by the committee to the bill, entitled "An act to establish a general stamp office;" and, having agreed thereto in part,

Ordered, That the bill pass to the third reading as amended.

The Senate resumed the second reading of the bill, further to amend the act, entitled "An act establishing the Judicial Courts of the United States."

On motion to postpone the further consideration thereof until the first Monday in December next, it passed in the negative—yeas 2, nays 23, as follows:

YEAS—Messrs. Livermore and Read.

NAYS—Messrs. Anderson, Bloodworth, Brown, Chipman, Cocke, Dayton, Dexter, Foster, Franklin, Goodhue, Gunn, Hillhouse, Langdon, Latimer, Lloyd, Marshall, Mason, Nicholas, Paine, Pinckney, Ross, Tracy, and Wells.

On the question to agree to the third reading of this bill, it passed in the negative—yeas 12, nays 14, as follows:

YEAS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Franklin, Gunn, Foster, Marshall, Mason, Nicholas, and Pinckney.

NAYS—Messrs. Chipman, Dayton, Dexter, Foster, Goodhue, Greene, Hillhouse, Latimer, Lloyd, Paine, Read, Ross, Tracy, and Wells.

So the bill was lost.

The VICE PRESIDENT communicated a report from the Secretary of the Treasury, agreeably to the order of first instant, stating the drawbacks allowed on salt; which was read.

Ordered, That it lie on the table.

Agreeably to notice given yesterday, Mr. MASON asked leave to bring in a bill supplementary to the act to suspend part of an act, entitled "An act to augment the Army of the United States, and for other purposes."

FRIDAY, April 4.

Agreeably to the order of the day, the resolution of the House of Representatives, for adjournment, on the first Monday in May next, was considered.

Ordered, That the further consideration thereof be postponed until Friday the 18th instant.

The Senate resumed the consideration of the motion made yesterday, that leave be given to bring in a bill supplementary to the act to suspend part of an act, entitled "An act to augment the Army of the United States, and for other purposes;" and on the question to agree to this motion, it passed in the affirmative—yeas 18, nays 9, as follows:

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YEAS—Messrs. Anderson, Baldwin, Bingham, Bloodworth, Brown, Cocke, Dexter, Foster, Franklin, Greene, Gunn, Langdon, Livermore, Marshall, Mason, Nicholas, Paine, and Pinckney.

NAYS—Messrs. Chipman, Dayton, Hillhouse, Latimer, Laurance, Lloyd, Read, Ross, and Tracy.

So the bill was read, and ordered to the second reading.

The bill, sent from the House of Representatives, entitled "An act to establish a general stamp office," was read the third time.

Resolved, That this bill pass as amended.

The Senate resumed the second reading of the bill "to prevent the interference of any military force in certain elections;" and, having agreed to an amendment, on the question to agree to the third reading of this bill, it passed in the negative—yeas 12, nays 17, as follows:

YEAS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Foster, Franklin, Langdon, Marshall, Mason, Nicholas, and Pinckney.

NAYS—Messrs. Bingham, Chipman, Dayton, Dexter, Goodhue, Greene, Gunn, Hillhouse, Latimer, Laurance, Livermore, Lloyd, Paine, Read, Ross, Tracy, and Wells.

So the bill was lost.

A message from the House of Representatives informed the Senate that the House have passed a bill "for the better government of the Navy of the United States;" in which they desire the concurrence of the Senate.

The bill last brought up for concurrence was read, and ordered to the second reading.

Mr. NICHOLAS, from the committee to whom was referred the bill "to alter and to establish sundry post roads," reported amendments.

Ordered, That they lie for consideration.

MONDAY, April 7.

The bill "for the better government of the Navy of the United States" was read the second time and referred to Messrs. BINGHAM, GOODHUE, and LANGDON, to consider and report thereon to the Senate.

The bill supplementary to the act to suspend part of an act, entitled "An act to augment the Army of the United States," was read the second time and referred to Messrs. MASON, GUNN, and TRACY, to consider and report thereon.

Mr. ROSS, from the committee to whom was referred the bill "to alter the form of certain oaths and affirmations," reported the bill without amendment.

A message from the House of Representatives informed the Senate that the House have passed a bill "to make further provision for the removal and accommodation of the Government of the United States;" a bill "to repeal the act laying duties on mills and implements employed in the manufacture of snuff;" and a bill "to authorize the defence of the merchant vessels of the United States;" in which they desire the concurrence of the Senate.

The bills were read and ordered to the second reading.

The Senate resumed the consideration of the bill, entitled "An act to continue in force an act concerning certain fisheries of the United States, and for the regulation and government of the fishermen employed therein, and for other purposes, as therein mentioned."

Resolved, That this bill pass with an amendment.

Mr. TRACY, from the committee to whom was referred, on the 24th December last, the petition of Thomas Burling and others, inhabitants of certain lands on the borders of the Mississippi, made report; which was read.

Ordered, That it lie for consideration.

Mr. TRACY, from the committee to whom was also referred a letter signed John Henderson, per order, directed to Winthrop Sargent, Governor, together with an extract of a letter from said Governor Sargent to the Secretary of State, made report; which was read.

Ordered, That it lie for consideration.

Mr. LAURANCE, from the committee to whom was referred, on the 28th of March last, sundry petitions respecting those articles, reported a bill permitting the exportation of some gunpowder; also, a number of muskets and cutlasses; and the bill was read and ordered to the second reading.

The Senate resumed the second reading of the bill for the relief of John Collet.

On motion, to agree to the third reading of this bill, it passed in the negative; so the bill was lost.

The Senate considered the amendments reported by the committee to the bill "establishing sundry post roads;" and, having in part agreed thereto, then adjourned

TUESDAY, April 8.

The bill for the defence of the merchant vessels of the United States was read the second time and referred to Messrs. GOODHUE, NICHOLAS, and TRACY, to consider and report thereon to the Senate.

The bill "for the removal and accommodation of the Government of the United States" was read the second time and referred to Messrs. ROSS, LLOYD, and HILLHOUSE, to consider and report thereon to the Senate.

The bill to repeal the "Act laying duties on mills and implements employed in the manufacture of snuff," was read the second time, and referred to Messrs. BINGHAM, LIVERMORE, and LAURANCE, to consider and report thereon to the Senate.

The bill permitting the exportation of some gunpowder, also, a number of muskets and cutlasses, was read the second time and ordered to lie on the table.

Mr. CHIPMAN, from the committee to whom was referred on the 12th March last, to inquire what amendments are necessary in the act to establish the Judicial Courts of the United States, reported a bill on the subject; which was read and ordered to the second reading.

The Senate took into consideration the report of the committee on the petition of Thomas Burling and others, inhabitants of the Mississippi Territory; and the report was adopted, as follows:

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"That the petitioners solicit an act of Congress for the confirmation of grants of land made by the Spanish Government, prior to the treaty of April, 1796; and likewise for confirming the claims for lands to those who were occupants before that time.

"They further request, in favor of those who have settled on vacant lands since the treaty with Spain, a priority of right to lands in that Territory; and a grant of head rights to all who are now, or may hereafter become, settlers.

"By the act of Congress for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a Government in the Mississippi Territory, a method is provided to settle all interfering claims to said lands, which settlement has not yet been effected. It is also declared, by said act, that the rights of the State of Georgia and of any other persons claiming in that Territory, shall remain unimpaired by said act.

"The committee are of opinion it will be improper for the Legislature of the Union to do anything upon the subject of said petition, while the interfering claims to the lands in said Territory remain unsettled. They therefore report that the prayer of said petition is unreasonable."

The Senate took into consideration the report of the same committee, on the letter of John Henderson to Winthrop Sargent, and the extract of a letter from Governor Sargent; and the report was adopted, as follows:

That the inhabitants of the Mississippi Territory, request an appropriation of lands in the Territory, by Congress, for the support of "clergymen and seminaries of learning; and such like purposes," in the same manner that appropriations have been made in the Northwestern Territory.

The committee are of opinion that the unsettled condition of claims to lands in the Mississippi Territory renders it improper at this time to make appropriations of lands for any purposes.

They therefore report that the request of said inhabitants is unreasonable.

A message from the House of Representatives informed the Senate that the House agree to the first amendment of the Senate to the bill to establish a general stamp office, and disagree to the other amendments; desire a conference on the subject, and have appointed managers on their part.

The Senate took into consideration the resolution of the House of Representatives last mentioned; and agreed to the conference, and that Messrs. TRACY and CHIPMAN be the managers on their part.

The Senate resumed the second reading of the bill to extend the privilege of obtaining patents for useful discoveries and inventions; and, after progress,

Ordered, That the further consideration thereof be postponed.

Mr. GUNN, from the committee to whom was referred the bill to fix the compensation of the Paymaster General, and assistants to the Adjutant General, reported amendments.

Ordered, That they lie for consideration.

The Senate resumed the consideration of the amendments reported by the committee to the bill to alter and establish sundry post roads; and,

having agreed thereto in part, and adopted other amendments, the bill was ordered to the third reading, as amended.

The Senate took into consideration the report of the committee to whom was referred, on the 11th of December, the petition of Joseph Russell, jr., and others.

Ordered, That the further consideration thereof, at this time, be postponed.

The Senate resumed the second reading of the bill, entitled "An act to alter the form of certain oaths and affirmations directed to be taken by the act, entitled 'An act providing for the second census or enumeration of the inhabitants of the United States.'"

On motion, it was agreed, by unanimous consent, to dispense with the rule, and that this bill be now read the third time.

Resolved, That this bill pass.

WEDNESDAY, April 9.

Mr. TRACY presented the petition of Benjamin G. Buleke, stating that he hath sustained injury by the interception of his letters in the Post Office, and praying redress; and the petition was read.

Ordered, That it lie on the table.

The bill, entitled "An act to alter and establish sundry post roads," was read the third time.

Resolved, That this bill pass with amendments.

Mr. GUNN, from the committee to whom was referred the bill providing for an amicable settlement of limits with the State of Georgia, reported amendments; which were read.

Ordered, That they lie for consideration.

The Senate resumed the consideration of the amendments reported by the committee to the bill to extend the privileges, of obtaining patents for useful discoveries and inventions to certain persons therein mentioned; and, having adopted the amendments,

Ordered, That this bill pass to the third reading as amended.

The Senate resumed the consideration of the report of the committee on the petition of Joseph Russell and others.

On the question to agree to the report, it passed in the affirmative—yeas 22, nays 4, as follows:

YEAS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Chipman, Cocke, Dayton, Foster, Franklin, Goodhue, Gunn, Hillhouse, Langdon, Latimer, Livermore, Lloyd, Marshall, Nicholas, Paine, Pinckney, Ross, and Tracy.

NAYS—Messrs. Dexter, Greene, Laurance, and Read.

So the report was adopted, as follows:

That the petitioners, as holders of certain bills of credit, (commonly called new emission bills,) emitted agreeably to a resolution of Congress of the 18th of March, 1780, pray of the United States payment of the interest on those bills; the parts of that resolution illustrating the principles upon which they were emitted, are as follows:

"*Resolved*, That the several States continue to bring into the Continental Treasury, by taxes or otherwise, their full quotas of fifteen million dollars monthly, as assigned them by the resolution of the 7th of October,

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1779; a clause in the resolution of the 23d of February last, for relinquishing two-thirds of the quotas, to the contrary notwithstanding; and that the States be further called on to make provision for continuing to bring into the said treasury their like quotas monthly, to the month of April, one thousand seven hundred and eighty-one, inclusive.

"That silver and gold be receivable in payment of the said quotas, at the rate of one Spanish milled dollar, in lieu of forty dollars of the bills now in circulation.

"That the said bills as paid in, except for the months of January and February past, which may be necessary for the discharge of past contracts, be not re-issued but destroyed.

"That as fast as the said bills shall be brought in to be destroyed and funds shall be established, as hereafter mentioned, for other bills, other bills be issued, not to exceed, on account, one twentieth part of the nominal sum of the bills brought in to be destroyed.

"That the bills which shall be issued be redeemable in specie, within six years after the present, and bear an interest at the rate of five per centum per annum, to be paid also in specie, at the redemption of the bills, or at the election of the holder, annually, at the respective Continental loan offices, in sterling bills of exchange, drawn by the United States on their Commissioners in Europe, at four shillings and six pence sterling per dollar.

"That the said new bills issue on the funds of individual States for that purpose established, and be signed by persons appointed by them, and that the faith of the United States be also pledged for the payment of said bills, in case any State on whose funds they shall be emitted, should, by the events of war, be rendered incapable to redeem them; which undertaking of the United States, and that of drawing bills of exchange for payment of interest as aforesaid, shall be endorsed on the bills to be emitted, and signed by a commissioner to be appointed by Congress for that purpose.

"That the face of the bills to be emitted read as follows, viz:

"The possessor of this bill shall be paid — Spanish milled dollars, by the thirty-first day of December, 1786, with interest in like money, at the rate of five per cent. per annum, by the State of —, according to an act of the legislature of the said State, of the — day of —, 1780.

"And the endorsement shall be as follows, viz:

"The United States insure the payment of the within bill, and will draw bills of exchange for the interest annually, if demanded, according to a resolution of Congress of the 18th day of March, 1780.

"That the said new bills shall be struck under the direction of the Board of Treasury, in due proportion for each State, according to the said monthly quotas, and lodged in the Continental loan offices in the respective States, where the Commissioner to be appointed by Congress, in conjunction with such persons as the respective States appoint, shall attend the signing of said bills, which shall be completed no faster than in the aforesaid proportion of one to twenty of the other bills brought in to be destroyed, and which shall be lodged for that purpose in the said loan offices.

"That, as the said new bills are signed and completed, the States, respectively, on whose funds they issue, receive six-tenths of them, and that the remainder be subject to the orders of the United States, and credited to the States on whose funds they are issued,

the accounts whereof shall be adjusted agreeably to the resolution of the 6th of October, 1779.

"That whenever interest on the bills to be emitted shall be paid prior to their redemption, such bills shall be thereupon exchanged for others of the like tenor, to bear date from the expiration of the year for which such interest is paid.

"That the several States be called on to provide funds for their quotas of the said new bills, to be so productive as to sink or redeem one-sixth part of them annually after the first day of January next."

Conformably to which all the States, excepting North Carolina, South Carolina, and Georgia, then invaded, were furnished with their several proportions of bills for emission, and, excepting Connecticut, and Delaware, did issue various sums of them, which passed into circulation at a considerable discount from the nominal value, and which in circulation continued to depreciate.

Provision for redemption of bills of the above description, has been made by the States which issued them at different periods and rates of value: but those provisions seem not to have given satisfaction to all the creditors, as, under the act of Congress, passed February 12th, 1793, entitled "An act relative to claims against the United States not barred by any act of limitation, and which have not been already adjusted," claims were lodged against the United States for payment of bills issued by the individual States as aforesaid, to amount of dollars

Since withdrawn	-	-	-	90,642
	-	-	-	58,222

Remaining,	-	-	-	32,420
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Upon any of which interest has not been paid by the United States, nor is proof shewn that demand for it was made, agreeably to said resolution. Such of the petitioners whose names are entered as claimants under said act of February 12th, 1793, appear to be holders of bills issued chiefly by the States of New Hampshire, Massachusetts, and Rhode Island.

The committee are informed that New Hampshire has provided for the redemption of those issued by that State, at the rate of one silver dollar for five dollars of their nominal amount.

Massachusetts, by the act funding the debt of that Commonwealth, passed February 1st, 1794, provided for receiving on loan new emission bills of that State, "at the rate of one dollar silver for four dollars of those bills, calculating the interest due on their face up to July 1st, 1794, and issuing a certificate for the principal and interest at five per cent., payable semi-annually."

Rhode Island, by act of Assembly, passed July (second session) 1780, providing for emitting bills conformably to the above resolution, ordered an annual tax for six years, as a fund for their redemption: a considerable sum of them has been paid into that State's treasury by tax; for those outstanding, no further provision has been made.

Upon this general view of the subject which presents itself, in considering the description of debt upon which interest is demanded, the committee are of opinion that the United States cannot be holden to make payment of interest on said bills, when there has not been demand made for such payment, agreeably to the terms of said resolution of Congress, and the endorsement on them.

The committee do not decide what would be the consequence, had such demand for payment of interest been proved; that subject not having been committed

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to them; but no such demand being proved, they are of opinion that the prayer of the petitions committed to them is unreasonable.

THURSDAY, April, 10.

Mr. GUNN, from the committee to whom was referred the bill "fixing the rank and pay of the commanding officer of the corps of marines," reported it without amendment.

The Senate resumed the consideration of the amendments reported by the committee to the bill authorizing Seth Harding to locate certain lands; which were in part agreed to; and,

Ordered, That the original committee on this bill be revived; and that the bill be recommitted to them, further to consider and report thereon.

The bill, sent from the House of Representatives, entitled "An act to extend the privileges of obtaining patents for useful discoveries and inventions to certain persons therein mentioned; and to enlarge and define the penalties for violating the rights of patentees," was read the third time.

Resolved, That this bill pass with amendments.

Ordered, That the petition of Benjamin G. Bulcke be referred to Messrs. TRACY, BLOODWORTH, and FOSTER, to consider and report thereon.

The Senate considered the amendments reported by the committee to the bill for an amicable settlement of limits with the State of Georgia.

On motion to strike out from the 10th section, reported as an amendment, these words: "*Provided*, That the said Commissioners shall not contract for the payment of any money from the Treasury of the United States, other than the proceeds of the same lands:" it passed in the negative—yeas 3, nays 22, as follows:

YEAS—Messrs. Baldwin, Gunn, and Read.

NAYS—Messrs. Anderson, Bingham, Bloodworth, Browne, Chipman, Cocke, Dexter, Foster, Franklin, Greene, Hillhouse, Langdon, Latimer, Laurance, Livermore, Lloyd, Marshall, Nicholas, Paine, Pinckney, Ross, and Tracy.

And having agreed to the amendments reported,
Ordered, That this bill pass to the third reading as amended.

Mr. LANGDON, from the committee to whom was recommitted the bill, authorizing Seth Harding to locate certain lands, reported amendments; which were adopted.

Ordered, That this bill pass to the third reading as amended.

Mr. PAINE, from the committee to whom was referred the petition of Elijah Brainard, made report.

On motion it was agreed that this report be adopted as follows:

That the petitioner asks pecuniary relief for a wound he states to have received in the Revolutionary war.

Although there are some circumstances attending this claim which are peculiar to itself, and would plead in the petitioner's favor, yet your committee do not see sufficient in it to distinguish it from other claims which are barred by the statute of limitations; your committee are therefore of opinion that the petitioner ought to have leave to withdraw his petition.

SATURDAY, April 12.

Mr. GOODHUE, from the committee to whom was referred the bill authorizing the defence of the merchant vessels of the United States, reported amendments, which were read.

Ordered, That they lie for consideration.

The Senate resumed the consideration of the bill to enable the President of the United States to borrow money for the public service; and agreed that the consideration thereof be postponed.

The Senate resumed the second reading of the bill for the relief of the Corporation of Rhode Island College.

Ordered, That this bill pass to a third reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, to authorize the President of the United States to accept for the United States a cession of the Western Reserve of Connecticut, in which they desire the concurrence of the Senate.

The bill was read and ordered to the second reading.

The bill, supplemental to the act for an amicable settlement of limits with the State of Georgia was read the third time.

On motion further to amend the bill, it was agreed, that the consideration thereof be postponed until Wednesday next.

Mr. HILLHOUSE, from the committee to whom was referred the bill supplemental to the act to regulate trade and intercourse with the Indian tribes, reported amendments; which were read.

Ordered, That they lie for consideration.

The bill authorizing Seth Harding to locate certain lands was read the third time.

Resolved, That this bill pass, that it be engrossed, and that the title thereof be, "An act authorizing Seth Harding to locate certain lands in the Territory of the United States Northwest of the river Ohio."

Mr. ROSS, from the the committee to whom was referred the bill to make further provision for the removal and accommodation of the Government of the United States, reported amendments; which were read.

Ordered, That they lie for consideration.

The Senate considered the report of the committee on the bill fixing the rank and pay of the commanding officer of the corps of marines.

Ordered, That the original committee on this bill be revived; and that the bill be recommitted to them, further to consider and report thereon.

MONDAY, April 14.

The bill authorizing the President of the United States to accept, for the United States, a cession of the Western Reserve of Connecticut, was read the second time, and referred to Messrs. ROSS, LAURANCE, TRACY, READ, and MARSHALL, to consider and report thereon.

The bill, sent from the House of Representatives, entitled "An act for the relief of the Corporation of Rhode Island College," was read the third time and passed.

The second reading of the bill to enable the

President of the United States to borrow money for the public service, was resumed, and the bill was ordered to the third reading.

The amendments reported by the committee to the bill supplementary to the act to regulate trade and intercourse with the Indian tribes, were considered and adopted.

Ordered, That this bill pass to the third reading as amended.

A message from the House of Representatives informed the Senate that the House have passed a bill making appropriations for the support of Government for the year 1800; a bill to make appropriations for the Navy of the United States during the year 1800; a bill to authorize the sale and conveyance of lands in certain cases, by the marshals of the United States; a bill to continue in force "An act prescribing the mode of taking evidence in cases of contested elections;" and a bill to provide for rebuilding, erecting, and supporting certain light-houses; in which bills they desire the concurrence of the Senate.

The bills were read and ordered to the second reading.

Mr. HILLHOUSE, from the committee to whom the subject was referred, reported a bill in addition to the act prohibiting the slave trade; which was read and ordered to the second reading.

The amendments reported by the committee to the bill for the defence of the merchant vessels of the United States were considered and adopted.

Ordered, That the bill pass to the third reading as amended.

The Senate considered the resolution respecting the copper mines on the south side of Lake Superior.

Resolved, That they do concur therein.

The bill permitting the exportation of some gunpowder, muskets, and cutlasses, was read the second time and ordered to the third reading.

The bill to amend the act establishing the Judicial Courts of the United States was read the second time: and, after debate, the Senate adjourned.

TUESDAY, April 15.

The bill providing for the rebuilding, erection, and support of certain light-houses, was read the second time and referred to Messrs. GOODHUE, HILLHOUSE, and LANGDON, to consider and report thereon.

The bill to continue in force an act prescribing the mode of taking evidence in cases of contested elections was read the second time.

Mr. BINGHAM, from the committee to whom was referred the bill for the better government of the Navy, reported amendments.

The bill to authorize the sale and conveyance of lands by the marshals was read the second time, and referred to Messrs. BROWN, DEXTER, and ROSS, to consider and report thereon.

The bill making appropriations for the support of Government for the year 1800; also, the bill making appropriations for the Navy of the United States, during the year 1800; were severally read the second time, and referred to Messrs. TRACY,

BINGHAM, and READ, to consider and report thereon.

The bill in addition to the act prohibiting the slave trade was read the second time.

The bill entitled "An act to continue in force an act, entitled 'An act authorizing the defence of the merchant vessels of the United States against French depredations,'" was read the third time.

Resolved, That this bill pass with an amendment.

The bill entitled "An act supplementary to the act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," was read the third time.

Resolved, That this bill pass with amendments.

The bill to enable the President of the United States to borrow money for the public service was read the third time.

Ordered, That it be recommitted to the committee, this day appointed, on the bills making appropriations for the year 1800, to report thereon.

A message from the House of Representatives informed the Senate that they have passed a bill in addition to the act for the punishment of certain crimes, in which they desire the concurrence of the Senate.

The bill last mentioned was read, and ordered to the second reading.

The bill permitting the exportation of some gunpowder, muskets, and cutlasses, was read the third time.

Resolved, That this bill pass, that it be engrossed, and that the title thereof be "An act permitting the exportation of certain parcels of gunpowder, muskets, and cutlasses."

Mr. TRACY, from the managers at the conference on the bill to establish a general stamp office, made report; whereupon,

Resolved, That the Senate insist on some, and recede from other amendments to the said bill, as reported.

The report of the committee on the bill to fix the compensation of the Paymaster General, and assistants to the Adjutant General, was considered and adopted.

Ordered, That this bill pass to the third reading as amended.

The bill making further provision for the removal and accommodation of the Government of the United States, was considered; and, after progress, the Senate adjourned.

WEDNESDAY, April 16.

The bill in addition to the act for the punishment of certain crimes was read the second time, and referred to Messrs. DEXTER, READ, and DAYTON, to consider and report thereon.

The second reading of the bill to prescribe the mode of taking evidence in cases of contested elections was resumed.

Ordered, That it pass to a third reading.

The amendments reported by the committee to the bill for the better government of the Navy of the United States were read and adopted.

Ordered, That the bill pass to the third reading as amended.

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Mr. GUNN, from the committee on the bill fixing the rank and pay of the commanding officer of the corps of marines, reported an amendment.

The second reading of the bill to amend the act establishing the Judicial Courts of the United States was resumed.

Ordered, That it be recommitted to Messrs. NICHOLAS, DAYTON, and TRACY, further to consider and report thereon.

A message from the House of Representatives informed the Senate that the House so far recede from their disagreement to the amendments of the Senate to the bill to establish a general stamp office, as to agree thereto with amendments; in which they desire the concurrence of the Senate. They have passed a bill for the regulation of the public arsenals and magazines; in which they desire the concurrence of the Senate.

Mr. BROWN, from the committee to whom was referred the bill to divide the Territory of the United States Northwest of the Ohio into two separate governments, reported amendments; which were read.

The Senate took into consideration the resolution of the House of Representatives, on their amendments to the bill establishing a general stamp office.

Resolved, That they so far recede therefrom as to agree to the amendments of the House of Representatives to their amendments.

The bill to fix the compensation of the Paymaster General, and assistants to the Adjutant General, was read the third time.

Ordered, That it be recommitted to Messrs. GUNN, DAYTON, and ANDERSON, to consider and report thereon.

The bill last brought up from the House of Representatives for concurrence was read, and ordered to the second reading.

Mr. MASON notified the Senate that he should, to-morrow, move for leave to bring in a bill to repeal in part the act, entitled "An act in addition to the act, entitled 'An act for the punishment of certain crimes against the United States.'"

The third reading of the bill providing for an amicable settlement of limits with the State of Georgia was resumed.

On motion, to agree to amend the 10th section reported as an amendment, by adding after the word "reasonable:"

"And also, that the said Commissioners on the part of the United States, or any two of them, after such settlement with the State of Georgia shall be made, be authorized to settle, by compromise, with the parties interested, any claims which are or shall be made by settlers, or any other persons whatsoever, to any parts of the aforesaid lands, which may be relinquished by the State of Georgia. *Provided*, That the settlement with Georgia and the claimants aforesaid shall be made and completed before the 4th day of March, 1803."

It passed in the affirmative—yeas 19, nays 8, as follows:

YEAS—Messrs. Anderson, Bingham, Chipman, Dayton, Dexter, Foster, Goodhue, Greene, Gunn, Hillhouse, Langdon, Latimer, Livermore, Lloyd, Read, Ross, Schureman, Tracy, and Wells.

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NAYS—Messrs. Baldwin, Bloodworth, Brown, Cocke, Franklin, Marshall, Mason, and Nicholas.

Resolved, That this bill pass as amended.

THURSDAY, April 17.

The bill for the regulation of arsenals and magazines was read the second time, and referred to Messrs. TRACY, DAYTON, and ANDERSON, to consider and report thereon.

The Senate considered the amendment reported to the bill fixing the rank and pay of the commanding officer of the corps of marines; which was adopted, and it was agreed that the bill be read the third time as amended.

Mr. GOODHUE from the committee on the bill for rebuilding and supporting certain light-houses, reported the bill without amendment.

The Senate resumed the consideration of the bill, entitled "An act to make further provision for the removal and accommodation of the Government of the United States.

On motion to strike out the first section, agreeably to the report of the committee, it passed in the negative—yeas 8, nays 21, as follows:

YEAS—Messrs. Bingham, Brown, Goodhue, Latimer, Laurance, Livermore, Ross, and Wells.

NAYS—Messrs. Anderson, Baldwin, Bloodworth, Chipman, Cocke, Dayton, Dexter, Foster, Franklin, Greene, Gunn, Hillhouse, Langdon, Lloyd, Marshall, Mason, Nicholas, Pinckney, Read, Schureman, and Tracy.

On the question to agree to the third reading of the bill as amended, it passed in the affirmative—yeas 20, nays 9, as follows:

YEAS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Chipman, Cocke, Dayton, Dexter, Foster, Franklin, Greene, Gunn, Langdon, Lloyd, Marshall, Mason, Nicholas, Pinckney, Read, and Tracy.

NAYS—Messrs. Bingham, Goodhue, Hillhouse, Latimer, Laurance, Livermore, Ross, Schureman, and Wells.

On the question to agree to the final passage of the bill, it passed in the affirmative—yeas 20, nays 9, as follows:

YEAS—Messrs. Anderson, Baldwin, Bloodworth, Chipman, Cocke, Dexter, Foster, Franklin, Greene, Gunn, Langdon, Lloyd, Marshall, Mason, Nicholas, Pinckney, Read, and Tracy.

NAYS—Messrs. Bingham, Brown, Goodhue, Hillhouse, Latimer, Laurance, Livermore, Ross, Schureman, and Wells.

So it was *Resolved*, That the Senate concur in this bill as amended.

The bill entitled "An act to continue in force, for a limited time, the act entitled an act to prescribe the mode of taking evidence in cases of contested elections for members of the House of Representatives of the United States, and to compel the attendance of witnesses," was read the third time.

Resolved, That the Senate concur in this bill.

The bill, entitled "An act for the better government of the Navy of the United States," was read the third time.

Resolved, That this bill pass as amended.

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The Senate resumed the third reading of the bill, entitled "An act to fix the compensation of the Paymaster General, and assistants to the Adjutant General; and it being further amended,

Resolved, That this bill do pass with amendments.

A message from the House of Representatives informed the Senate that the House have passed a bill making appropriations for the Military Establishment of the United States for the year 1800; also, a bill supplementary to the laws now in force, fixing the compensation of the officers of the Senate and House of Representatives; in which they desire the concurrence of the Senate.

The bill first mentioned in the message was read, and by unanimous consent it was read the second time.

Ordered, That it be referred to the committee appointed the 15th instant, on the bills making appropriations for the support of Government, and for the Navy, for the year 1800, to consider and report thereon.

The bill last mentioned in the message was read and ordered to the second reading.

The VICE PRESIDENT communicated a letter from Samuel Meredith, Treasurer of the United States, with his specie account ending the 31st of December 1799.

The Senate resumed the consideration of the report of the committee to whom was referred the bill to divide the Territory of the United States Northwest of the river Ohio into two separate governments; and having agreed thereto,

Ordered, That this bill pass to the third reading as amended.

FRIDAY, April 18.

The bill supplementary to the laws fixing the compensation of the officers of the Senate and House of Representatives, was read the second time, and referred to Messrs LIVERMORE, LATIMER, and ANDERSON, to consider and report thereon.

Ordered, That the committee appointed the 12th of March last on the bill "to alter and establish sundry post roads," be revived, and that they be instructed to bring in a bill supplementary thereto.

Mr BINGHAM, from the committee on the bill to repeal the act laying duties on mills, and the implements employed in the manufacture of snuff, reported it without amendment.

The second reading of the bill to provide for the rebuilding, erecting, and supporting, certain light-houses, was resumed.

Ordered, That it pass to a third reading.

The bill entitled "An act to divide the Territory of the United States Northwest of the Ohio into two separate governments," was read the third time.

Resolved, That the further consideration of this bill be postponed until Monday next.

Agreeably to the order of the day, the resolution of the House of Representatives, for an adjournment of the two Houses on the first Monday in May next, was considered.

Resolved, That the Senate concur therein, with this amendment: strike out the 1st Monday, and insert the 2d Monday.

The bill, entitled "An act fixing the rank and pay of the commanding officer of the corps of marines," was read the third time.

Resolved, That this bill pass with amendments.

The second reading of the bill to prohibit the carrying on the slave trade from the United States, was resumed.

Ordered, That it pass to a third reading.

Mr. Ross, from the committee on the bill authorizing the President of the United States to accept a cession of the jurisdiction of the Western Reserve of Connecticut, reported an amendment.

SATURDAY, April 19.

The bill, entitled "An act to repeal the act laying duties on mills, and implements employed in the manufacture of snuff;" also, the bill, entitled "An act to provide for rebuilding the light-house at New London; for the support of a light-house at Clerk's Point; and for the erection and support of a light-house at Wigwam Point, and for other purposes;" were severally read the third time and passed.

The bill to prohibit the carrying on the slave trade from the United States was read the third time.

Resolved, That this bill pass, that it be engrossed, and that the title thereof be "An act, in addition to the act entitled 'An act to prohibit the carrying on the slave trade from the United States to any foreign place or country.'"

Mr. DEXTER, from the committee on the bill for the punishment of certain crimes against the United States, reported it without amendment.

Ordered, That the bill pass to a third reading.

Mr. Ross, from the committee on the bill providing for the sale of the lands in the Territory Northwest of the Ohio, reported amendments.

Ordered, That Mr. Ross be added to the committee, appointed the 28th of February last, on the subject of unappropriated lands claimed by the United States in the State of North Carolina.

MONDAY, April 21.

The bill, entitled "An act to continue in force the act, in addition to the act for the punishment of certain crimes against the United States," was read the third time and passed.

The bill, entitled "An act to divide the Territory of the United States Northwest of the Ohio into two separate governments," was read the third time, amended, and passed.

A message from the House of Representatives informed the Senate that they have passed a bill to continue the duty on salt, in which they desire the concurrence of the Senate.

The bill last mentioned was read and ordered to the second reading.

The Senate took into consideration the amendments to the bill for the sale of lands northwest of the Ohio; and having agreed thereto,

Ordered, That this bill pass to the third reading as amended.

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The bill entitled "An act respecting the Mint," was read the third time and passed.

TUESDAY, April 22.

The bill laying additional duties on salt was read the second time, and referred to Messrs. BROWN, GOODHUE, and ANDERSON, to consider and report thereon.

Mr. TRACY, from the committee on the petition of Benjamin G. Bulcke, reported that the prayer thereof is unreasonable.

Agreeably to the order of the day, the Senate took into consideration the amendment to the bill to authorize the President of the United States to accept, for the United States, a cession of jurisdiction of the territory west of Pennsylvania, commonly called the Western Reserve of Connecticut; and agreed thereto.

On motion, to agree to the third reading of this bill, as amended, it passed in the affirmative—yeas 15, nays 10, as follows:

YEAS—Messrs. Anderson, Cocke, Dayton, Dexter, Foster, Goodhue, Greene, Gunn, Hillhouse, Livermore, Marshall, Read, Schureman, Tracy, and Wells.

NAYS—Messrs. Baldwin, Bingham, Bloodworth, Brown, Franklin, Latimer, Laurance, Mason, Nicholas, and Ross.

Mr. LIVERMORE, from the committee on the bill fixing the compensations of the officers of the Senate and House of Representatives, reported amendments; which were read.

The bill, entitled "An act to amend the act, entitled 'An act providing for the sale of the lands of the United States in the Territory Northwest of the Ohio, and above the mouth of Kentucky river,'" was read the third time, and passed with amendments.

WEDNESDAY, April 23.

The bill to authorize the President of the United States to accept, for the United States, a cession of jurisdiction of the territory west of Pennsylvania, commonly called the Western Reserve of Connecticut, was read the third time.

On motion, to amend section 1st, line 2d, after the word "that," to strike out to the word "to," in third line, and insert:

"It shall be lawful for the Attorney General of the United States, with such agent or attorney as the State of Connecticut may appoint for that purpose, to institute a suit, or make up an issue, in the Supreme Court of the United States, to try and decide the title of the said State of Connecticut to that tract of land commonly called the Western Reserve of Connecticut. And should the decision of the said Court be in favor of the claim of the said State of Connecticut, that then the President of the United States shall be authorized:"

It passed in the negative—yeas 10, nays 15, as follows:

YEAS—Messrs. Baldwin, Bloodworth, Brown, Franklin, Langdon, Laurance, Mason, Nicholas, Ross, and Schureman.

NAYS—Messrs. Anderson, Cocke, Dayton, Dexter, Foster, Goodhue, Greene, Gunn, Hillhouse, Latimer, Livermore, Marshall, Read, Tracy, and Wells.

And the question on the final passage of the bill as amended, was determined in the affirmative—yeas 15, nays 10, as follows:

YEAS—Messrs. Anderson, Cocke, Dayton, Dexter, Foster, Goodhue, Greene, Gunn, Hillhouse, Livermore, Marshall, Read, Schureman, Tracy, and Wells.

NAYS—Messrs. Baldwin, Bloodworth, Brown, Franklin, Langdon, Latimer, Laurance, Mason, Nicholas, and Ross.

A message from the House of Representatives informed the Senate that the House have passed a bill to establish the district of Kennebunk, and other places therein mentioned; also, the bill for equalising the valuations of unseated lands; in which they desire the concurrence of the Senate.

Mr. MASON, from the committee to whom was referred the bill supplementary to the act to suspend part of the act providing for the augmentation of the Army, reported an amendment; which was read.

The bills last brought up for concurrence were read, and it was agreed that they be severally read the second time.

The Senate took into consideration the amendments reported by the committee to the bill fixing the compensations of the officers of the Senate and House of Representatives; and, having agreed thereto,

Ordered, That the bill pass to the third reading as amended.

THURSDAY, April 24.

The bill for equalising the valuations of unseated lands was read the second time and referred to Messrs. LAURANCE, LIVERMORE, and BROWN, to consider and report thereon.

The bill to establish the district of Kennebunk, and other places therein mentioned, was read the second time, and referred to Messrs. GOODHUE, NICHOLAS, and HILLHOUSE, to consider and report thereon.

The bill, entitled "An act supplementary to the laws now in force fixing the compensations of the officers of the Senate and House of Representatives, was read the third time, and passed with amendments.

The Senate considered the report of the committee on the bill supplementary to the act to suspend part of the act, entitled "An act to augment the Army of the United States, and for other purposes," which is as follows: Line 2, after the word "that," strike out to the end of the bill, and insert:

"It shall be lawful for the President of the United States to suspend any further military appointments under the act to augment the Army of the United States, and for other purposes, and under the ninth section of the act for the better organizing of the troops of the United States, and for other purposes, according to his discretion, having reference to economy and the good of the service."

On motion to adopt the report, a division was called for, and the question was taken on striking out: which passed in the affirmative—yeas 14, nays 11, as follows:

YEAS—Messrs. Bingham, Dexter, Foster, Goodhue,

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Greene, Gunn, Hillhouse, Latimer, Laurance, Read, Ross, Schureman, Tracy, and Wells.

YAYS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Franklin, Langdon, Livermore, Marshall, Mason, and Nicholas.

And the amendment was adopted, and the bill ordered to be read a third time as amended.

Mr. NICHOLAS, from the committee appointed the 18th instant, reported a bill supplementary to the act to alter and establish sundry post roads; which was read.

On the question to agree to the second reading of the bill, it was determined in the negative. So the bill was lost.

FRIDAY, April 25.

The bill supplementary to the act to suspend part of the act, entitled "An act to augment the Army of the United States, and for other purposes," was read the third time, and postponed to Tuesday next.

MONDAY, April 28.

Mr. TRACY, from the committee, reported the bill regulating public arsenals and magazines, without amendment; and it was agreed that it pass to a third reading.

Mr. BROWN, from the committee on the bill to authorize the sale of lands, in certain cases, by the marshals, reported amendments; which were read.

A message from the House of Representatives informed the Senate that they disagree to some, and agree to other, amendments to the bill providing for the sale of the lands northwest of the Ohio: they agree to some, and disagree to other, amendments to the bill for a settlement of limits with the State of Georgia. They disagree to the amendments of the Senate to the bill to divide the Territory Northwest of the Ohio into two separate governments. They have appointed a committee, with such as the Senate may join, on the subject of a public library. They have passed a bill authorizing a credit to William Tazewell; a bill allowing payment to the militia commanded by Major Thomas Johnson, in the year 1794; a bill authorizing the sale of certain lands between the Great and Little Miami rivers; in which bills and resolutions they desire the concurrence of the Senate.

The Senate considered the resolution of the House of Representatives on the amendment to the bill providing for the sale of the lands northwest of the Ohio.

Resolved, That they ask a conference thereon, and that Messrs. Ross and Brown be managers on the part of the Senate.

The Senate considered the resolutions of the House of Representatives on the amendments to the bill for the settlement of limits with the State of Georgia; and ordered that they be committed to Messrs. Ross, DEXTER, and LIVERMORE, to report thereon.

The Senate took into consideration the resolutions of the House of Representatives, on the amendment to the bill for dividing the Territory

Northwest of the Ohio into two separate governments.

Resolved, That they insist on their amendments. The resolution of the House of Representatives for the appointment of a joint committee on the subject of a public library, was considered and adopted.

Resolved, That Messrs. DEXTER, BINGHAM, and NICHOLAS, be the committee on the part of the Senate.

The bill authorizing a credit to William Tazewell was twice read, by unanimous consent, and referred to Messrs. BROWN, ANDERSON, and LIVERMORE, to consider and report thereon.

The bill directing the payment of militia under Major Thomas Johnson, in the year 1794, was twice read, by unanimous consent, and referred to Messrs. TRACY, ANDERSON, and DAYTON, to consider and report thereon.

The bill to authorize the issuing of patents was twice read, by unanimous consent, and referred to Messrs. DEXTER, MARSHALL, and GREENE, to consider and report thereon.

The bill last mentioned in the message was read, and ordered to the second reading.

Mr. GOODRUE, from the committee to whom was referred the bill to establish the district of Kennebunk, and certain other districts, reported amendments.

A motion was made that a committee be appointed to inquire into the propriety of passing an act to authorize the meeting of Congress at an earlier period than the time directed by the Constitution, and that they report by bill or otherwise; and it was agreed that the consideration thereof be postponed.

Mr. NICHOLAS, from the committee to whom was referred the bill to amend the act to establish the Judicial Courts of the United States, reported amendments.

Ordered, That Messrs. HILLHOUSE, BINGHAM, and DEXTER, be a committee to consider whether any, and what, alteration ought to be made in the act, entitled "An act to establish the Treasury Department;" and whether it would not be expedient to make it the duty of the Secretary of the Treasury to digest, prepare, and report to Congress, at the commencement of every session, plans for improving and increasing the revenue, and raising such sum or sums of money as shall be necessary for the public expenditures; and report by bill or otherwise.

TUESDAY, April 29.

A message from the House of Representatives informed the Senate that the House have passed a bill to promote the manufacture of sheet copper within the United States; in which they desire the concurrence of the Senate. They agree to the conference on the bill providing for the sale of the lands northwest of the Ohio, and have appointed managers on their part. They ask a conference on the amendment to the bill to divide the Territory Northwest of the Ohio into two separate

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governments, and have appointed managers on their part.

The Senate took into consideration the resolution of the House of Representatives on the bill last mentioned.

Resolved, That they agree to the proposed conference, and that Messrs. Ross and Brown be managers at the same on the part of the Senate.

The bill first mentioned in the message was read, and passed to the second reading.

The bill providing for the sale of lands between the Great and Little Miami rivers, was read the second time, and committed to Messrs. Ross, Brown, and Livermore, to consider and report thereon.

Mr. TRACY, from the committee on the bill to authorize the President of the United States to borrow money, reported it without amendment.

The bill, entitled "An act for the regulation of public arsenals and magazines," was read the third time, and passed.

A motion was made,

"That a committee be appointed to inquire into and make a statement of the expenditure of public money for — years past, and that they be authorized to inspect all public records, books, and papers, or to require copies thereof, when, in their opinion, the same may be necessary, and to make a report at the next session of Congress."

And it was agreed that the motion lie for consideration.

Mr. BROWN, from the committee on the bill laying duties on imported salt, reported an amendment.

The Senate resumed the third reading of the bill supplementary to the act to suspend the act for augmenting the Army.

And the question on the final passage of the bill was determined in the affirmative—yeas 19, nays 6, as follows:

YEAS—Messrs. Anderson, Baldwin, Bingham, Bloodworth, Brown, Cocke, Dexter, Foster, Franklin, Goodhue, Greene, Gunn, Hillhouse, Howard, Langdon, Livermore, Mason, Nicholas, and Schureman.

NAYS—Messrs. Dayton, Latimer, Read, Ross, Tracy, and Wells.

So it was *Resolved*, That this bill pass, that it be engrossed, and that the title thereof be "An act supplementary to the act to suspend part of an act entitled 'An act to augment the Army of the United States and for other purposes.'"

The Senate took into consideration the report of the committee on the bill to amend the act to establish the Judicial Courts of the United States; the first clause of which is as follows:

Strike out the whole of the bill after the word "serve," in the third line, and insert "in the Courts of the United States, shall be designated by lot, or otherwise, in each State or district respectively, according to the mode of forming juries, to serve in the highest courts of law therein, now practised; so far as the same shall render such designation practicable by the Courts and Marshals of the United States."

On motion to strike out all that follows the word "otherwise," in the fourth line of the report, for the purpose of inserting the following:

"Summoned or procured in each State respectively, according to the mode directed and prescribed by the laws of each State respectively, so far as such laws shall render the same practicable by the Courts or Marshals of the United States; and where the State mode cannot be used in the Courts of the United States, the Marshal attending such Courts shall, every day the Court sits, summon a sufficient number of persons to attend the Court that day, that out of them may be impanelled sufficient juries for the trial of all causes (except cases punishable with death) depending in such Courts; and if any person so summoned shall fail to attend the Court accordingly, he shall be fined eight dollars, to the use of the United States."

A division of the motion was called for, and the question was taken on striking out, which passed in the negative—yeas 9, nays 16, as follows:

YEAS—Messrs. Anderson, Bloodworth, Brown, Cocke, Franklin, Langdon, Marshall, Mason, and Nicholas.

NAYS—Messrs. Bingham, Dayton, Dexter, Foster, Goodhue, Greene, Gunn, Hillhouse, Howard, Latimer, Livermore, Read, Ross, Schureman, Tracy, and Wells.

And it was agreed that the bill pass to the third reading as amended.

WEDNESDAY, April 30.

The bill to promote the manufacture of sheet copper within the United States was read the second time, and committed to Messrs. DEXTER, GUNN, and LIVERMORE, to consider and report thereon.

The bill to establish the Judicial Courts of the United States was read the third time.

Resolved, That this bill pass, that it be engrossed, and that the title thereof be "An act to amend an act, entitled 'An act to establish the Judicial Courts of the United States.'"

The Senate resumed the third reading of the bill, entitled "An act to enable the President of the United States to borrow money for the public service."

On motion, to strike out these words: "and upon such terms and conditions as he shall judge most advantageous for the United States;" and insert "at a rate of interest, not exceeding 6 per cent. per annum."

A division of the motion was called for, and the question was taken on striking out; which passed in the negative—yeas 11, nays 14, as follows:

YEAS—Messrs. Anderson, Baldwin, Brown, Cocke, Foster, Franklin, Gunn, Langdon, Marshall, Mason, and Nicholas.

NAYS—Messrs. Bingham, Dayton, Dexter, Goodhue, Greene, Hillhouse, Howard, Latimer, Livermore, Read, Schureman, Tracy, and Wells.

On motion to strike out "fifteen years," the term limited for reimbursement of the loan, and insert "eight years."

A division of the motion was called for, and the question was taken on striking out; which was passed in the negative—yeas 10, nays 15, as follows:

YEAS—Messrs. Anderson, Baldwin, Brown, Cocke, Franklin, Gunn, Langdon, Marshall, Mason, and Nicholas.

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NAYS—Messrs. Bingham, Dayton, Dexter, Foster, Goodhue, Greene, Hillhouse, Howard, Latimer, Livermore, Read, Ross, Schureman, Tracy, and Wells.

And the question on the final passage of the bill was determined in the affirmative—yeas 15, nays 10, as follows:

YEAS—Messrs. Bingham, Dayton, Dexter, Foster, Goodhue, Greene, Gunn, Hillhouse, Howard, Latimer, Livermore, Read, Schureman, Tracy, and Wells.

NAYS—Messrs. Anderson, Baldwin, Brown, Cocke, Franklin, Langdon, Marshall, Mason, Nicholas, and Ross.

The Senate took into consideration the amendment reported by the committee to the bill to authorize the sale and conveyance of lands by the Marshals of the United States: and it was agreed that the bill pass to the third reading as reported.

The Senate resumed the second reading of the bill to continue "An act laying additional duty on salt imported;" and it was agreed that it pass to the third reading.

THURSDAY, May 1.

The bill, entitled "An act to authorize the sale and conveyance of lands in certain cases, by the Marshals of the United States, and to confirm former sales," was read the third time and passed.

MR. BROWN, from the committee to whom was referred the bill allowing a credit to William Tazewell, reported it without amendment, and it was agreed that the bill be read the third time.

MR. ROSS, from the committee appointed to consider the amendments disagreed to by the House of Representatives, to the bill providing for a settlement of limits with the State of Georgia, reported that a conference be desired thereon; and the report was agreed to; and Messrs. ROSS and DEXTER were appointed managers on the part of the Senate.

The bill, entitled "An act to continue in force 'An act laying an additional duty on salt imported into the United States, and for other purposes,'" was read the third time; and the question to agree to the final passage of the bill was determined in the affirmative—yeas 16, nays 8, as follows:

YEAS—Messrs. Bingham, Dexter, Foster, Goodhue, Greene, Gunn, Hillhouse, Howard, Langdon, Latimer, Livermore, Marshall, Read, Schureman, Tracy, and Wells.

NAYS—Messrs. Anderson, Bloodworth, Brown, Cocke, Franklin, Mason, Nicholas, and Ross.

The amendments reported to the bill respecting the district of Kennebunk, and other districts therein mentioned, were adopted, and the bill passed to the third reading as amended.

MR. HILLHOUSE, from the committee appointed the 28th of April last, on the subject of the Treasury Department, reported a bill, which was twice read by unanimous consent.

MR. TRACY notified the Senate that he should, to-morrow, ask leave to bring in a bill continuing in force after the 25th day of June next the act concerning aliens.

FRIDAY, May 2.

MR. HILLHOUSE, from the committee to whom the subject was referred, reported a bill supplementary to the act establishing the Mint; which was read, and passed to the second reading.

The bill, entitled "An act to authorize the allowance of a credit to William Tazewell," was read the third time and passed.

The bill respecting the district of Kennebunk, and other districts therein mentioned, was read the third time.

Ordered, That the original committee be revived, and that the bill be recommitted to their further consideration.

MR. TRACY, from the committee to whom was referred the bill making appropriations for the support of Government for the year 1800, reported the bill without amendment; and it was agreed that the bill be read a third time.

A message from the House of Representatives informed the Senate that the House agree to the proposed conference on the bill for an amicable settlement of limits with the State of Georgia, and have appointed managers on their part. They have passed the bill for deciding disputed elections of President and Vice President of the United States, with amendments; in which they desire the concurrence of the Senate. They concur in the amendment to the bill authorizing the sale and conveyance of lands by the Marshals.

The Senate resumed the second reading of the bill supplementary to the act to establish the Treasury Department; and agreed that it pass to the third reading.

The Senate took into consideration the amendments of the House of Representatives to the bill for deciding disputed elections of President and Vice President of the United States, and they were referred to Messrs. ROSS, DEXTER, and LIVERMORE, to report thereon.

SATURDAY, May 3.

GOVERNEUR MORRIS, appointed a Senator by the State of New York, for the remainder of the term for which their late Senator, James Watson, was appointed, produced his credentials, and took his seat in the Senate; and the oath required by law was administered to him.

The bill supplementary to the act establishing the Mint was read the second time, and postponed until Monday next.

The motion made on the 28th of April, respecting the next meeting of Congress, was considered: and.

Resolved, That Messrs. BLOODWORTH, LIVERMORE, and TRACY, be a committee to inquire into the expediency of passing an act to authorize the next meeting of Congress at the city of Washington, in the District of Columbia, and whether it will not be advisable to meet at an earlier period than the time directed by the Constitution; and that the committee report by bill, or otherwise.

MR. DEXTER, from the committee to whom was referred the bill authorizing the issuing certain patents, reported it without amendment.

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Ordered, That the original committee be revived, and that the bill be recommitted, for their further consideration.

The bill, entitled "An act making appropriations for the support of Government, for the year 1800," was read the third time, and passed with an amendment.

The bill supplementary to the act to establish the Treasury Department was read the third time.

Resolved, That this bill pass, that it be engrossed, and that the title thereof be "An act to establish the Treasury Department."

Mr. TRACY notified the Senate that on Monday he would ask leave to bring in a bill concerning aliens.

MONDAY, May 3.

Mr. LAURANCE, from the committee appointed to consider the bill for equalising the valuations of unseated lands, reported it without amendment; and it was agreed that it be read a third time.

The Senate resumed the second reading of the bill supplementary to the act establishing the Mint; and it was agreed that it be read a third time.

A message from the House of Representatives informed the Senate that they have passed the bill prohibiting the slave trade, with an amendment, to which they desire the concurrence of the Senate.

They recede from their disagreement to the amendment of the Senate to the bill to divide the Territory Northwest of the Ohio into two separate governments, so far as to agree thereto with an amendment.

Mr. ROSS, from the committee on the bill last mentioned, made report; and it was—

Resolved, That the Senate so far recede from their amendment thereto, as to agree to the amendment to their amendment.

The Senate took into consideration the amendment of the House of Representatives to the bill prohibiting the slave trade.

Ordered, That the original committee be revived, and that the amendment be referred to them, to consider and report thereon.

A message from the House of Representatives informed the Senate that the House have passed a bill supplementary to the act to establish the compensation of the officers of the customs, in which they desire the concurrence of the Senate.

The bill last mentioned was read and passed to the second reading.

Mr. ROSS, from the managers at the conference on the amendments to the bill to amend the act providing for the sale of lands northwest of the Ohio, made report. Whereupon,

Resolved, That the Senate recede from their amendments to the sixth section, so far as respects the forty days, in both instances, and insist on all their other amendments.

TUESDAY May 6.

The bill supplementary to the act to establish the compensation of the officers employed in the collection of the duties on impost and tonnage,

was read the second time, and referred to the committee appointed the 12th of March last on that subject.

Mr. TRACY, from the committee on the bill making appropriations for the Military Establishment for the year 1800, reported it without amendment; and it was agreed that the bill be read the third time.

The bill supplementary to the act establishing the Mint was read the third time.

Resolved, That this bill pass, that it be engrossed, and that the title thereof be "An act supplementary to the act establishing the Mint, and regulating the coins of the United States."

The bill, entitled "An act to provide for equalising the valuations of unseated lands," was read the third time, and passed.

Mr. GOODHUE, from the committee on the bill, entitled "An act to establish the district of Kennebunk, and to annex Lyme to New London, and to alter the district of Bermuda Hundred and City Point, and therein to amend the act, entitled 'An act to regulate the collection of duties on imports and tonnage,'" reported an amendment, which was adopted; and the bill passed as amended.

A message from the House of Representatives informed the Senate that the House have passed a bill to enlarge the powers of the surveyors of the revenue; a bill to ascertain the compensation of public Ministers; a bill making appropriations for Indian treaties; and a bill respecting the lands granted to the inhabitants and settlers at Vincennes, and the Illinois country; in which they desire the concurrence of the Senate. The House of Representatives so far recede from their disagreement to the amendment of the Senate to the bill providing for the sale of the lands in the Territory Northwest of the Ohio, as to agree thereto with amendments.

The resolution of the House of Representatives last mentioned was considered.

Resolved, That the Senate concur in the amendments to the amendments.

The bill first mentioned in the message was twice read by unanimous consent, and referred to Messrs. LIVERMORE, WELLS, and GOODHUE, to consider and report thereon.

The second bill mentioned in the message was twice read by unanimous consent, and referred to Messrs. MORRIS, BINGHAM, and MASON, to consider and report thereon.

The third bill mentioned in the message was twice read by unanimous consent, and referred to Messrs. GUNN, HILLHOUSE, and ANDERSON, to consider and report thereon.

The fourth bill mentioned in the message was twice read by unanimous consent, and referred to Messrs. ROSS, BROWN, and LATIMER, to consider and report thereon.

Mr. DEXTER, from the committee on the bill to promote the manufacture of sheet copper, reported amendments.

And, on motion, the Senate adjourned.

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WEDNESDAY, May 7.

Mr. LIVERMORE, from the committee on the bill to enlarge the powers of the surveyors of the revenue, reported an amendment, which was agreed to; and the bill passed to the third reading as amended.

Mr. ROSS, from the managers at the conference on the amendments disagreed to by the House of Representatives to the bill providing for a settlement of limits with the State of Georgia, reported sundry modifications; which were agreed to.

Mr. HILLHOUSE, from the committee to whom was referred the amendment of the House of Representatives to the bill prohibiting the slave trade, reported amendments to the amendment; which were adopted.

Mr. GOODHUE, from the committee on the bill establishing the compensations of the officers employed in the collection of the duties on imports and tonnage, reported an amendment.

Mr. BLOODWORTH, from the committee to whom the subject was referred, reported a bill providing for the next meeting of Congress; which was read, and passed to the second reading.

Mr. MORRIS, from the committee on the bill to ascertain the compensation of public Ministers, reported an amendment; which was agreed to, and the bill passed to the third reading as amended.

The bill entitled "An act making appropriations for the Military Establishment of the United States, in the year 1800," was read the third time and passed.

The Senate took into consideration the report of the committee on the bill to establish the compensations of the officers employed in the collection of the duties on imports and tonnage.

On motion, to strike out the following from the 2d section:

"To the collector for the district of Boston and Charlestown, and to the collectors of Baltimore and Philadelphia, three-eighths of one per centum; to the collectors of Charleston, South Carolina, Salem, and Norfolk, three-quarters of one per centum; to the collector of the district of Portland, one per centum:"

It passed in the negative—yeas 7, nays 17, as follows:

YEAS—Messrs. Greene, Howard, Latimer, Read, Ross, Tracy, and Wells.

NAYS—Messrs. Anderson, Baldwin, Bingham, Bloodworth, Brown, Cocke, Foster, Franklin, Goodhue, Hillhouse, Laurance, Livermore, Marshall, Mason, Morris, Nicholas, and Schureman.

Ordered, That this bill pass to the third reading as amended.

THURSDAY, May 8.

Mr. ROSS, from the committee to whom was referred the amendment of the House of Representatives to the bill prescribing the mode of deciding disputed elections of President and Vice President of the United States, reported amendments thereto.

A message from the House of Representatives informed the Senate that the House do not concur in the bill to permit the exportation of certain

parcels of gunpowder, muskets, and cutlasses. They have passed a bill making provision for the children of Colonel John Harding, and Major Alexander Trueman; in which they desire the concurrence of the Senate. They agree to the modifications reported by the managers at the conference on the bill for an amicable settlement of limits with the State of Georgia, with an amendment to the amendment of the first section of the bill.

Mr. TRACY, from the committee on the bill directing the payment of the militia under the command of Major Thomas Johnson, reported amendments. He also reported, from the committee, amendments to the bill making appropriations for the Naval Department.

The VICE PRESIDENT communicated a letter from the Treasurer of the United States, with his War and Navy accounts, ending the 31st of March, 1800; which was read.

The bill, entitled "An act supplementary to an act, entitled 'An act to establish the compensation of the officers employed in the collection of the duties on imports and tonnage, and for other purposes,'" was read the third time, further amended, and passed.

Mr. DAYTON, from the joint committee of both Houses, appointed the 19th December last, on the receipt of the intelligence of the death of General GEORGE WASHINGTON, reported that the committee have agreed to report to their respective Houses sundry resolutions; which were read.

The Senate took into consideration the message of the House of Representatives, on the amendment to the amendment of the Senate to the bill providing for a settlement of limits with the State of Georgia; and agreed to the amendment to the amendment of the 1st section, line 1st.

A message from the House of Representatives informed the Senate that the House have passed a bill to lay additional duties on certain articles imported; also, a bill to retain a further sum on drawbacks.

The bills last mentioned were read, and severally passed to the second reading.

The Senate considered the amendments reported by the committee to the amendment of the House of Representatives on the bill prescribing the mode of deciding disputed elections of President and Vice President of the United States.

On motion, to agree to the following amendment reported by the committee:

Section 8, line 49, strike out the word "rejecting," and insert "admitting"—it passed in the affirmative—yeas 15, nays 11, as follows:

YEAS—Messrs. Bingham, Dayton, Dexter, Goodhue, Greene, Gunn, Hillhouse, Latimer, Livermore, Morris, Read, Ross, Schureman, Tracy, and Wells.

NAYS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Foster, Franklin, Marshall, Mason, Nicholas, and Pinckney.

On motion, to strike out the following words from the 1st section of the amendment of the House of Representatives, viz: "other than such as may merely question the number of votes by which the electors may have been appointed:" it

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passed in the negative—yeas 11, nays 16, as follows:

YEAS—Messrs. Dayton, Dexter, Goodhue, Greene, Hillhouse, Latimer, Read, Ross, Schureman, Tracy, and Wells.

NAYS—Messrs. Anderson, Baldwin, Bingham, Bloodworth, Brown, Cocke, Foster, Gunn, Laurance, Livermore, Marshall, Mason, Morris, Nicholas, and Pinckney.

On motion, to agree to the amendment of the House of Representatives, with the amendments reported, it passed in the affirmative—yeas 16, nays 11, as follows:

YEAS—Messrs. Bingham, Dayton, Dexter, Foster, Goodhue, Greene, Gunn, Hillhouse, Latimer, Laurance, Livermore, Morris, Ross, Schureman, Tracy, and Wells.

NAYS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Franklin, Marshall, Mason, Nicholas, Pinckney, and Read.

FRIDAY, May 9.

Resolved, That the Secretary of the Senate pay to Hugh McKinley, for his labor and attendance on the Senate, the last session, fifty dollars, over and above what he has already received; and one dollar and a half per day for his labor and attendance on the Senate during the time he may be employed the present session; to be paid out of the money appropriated for the contingent expenses of the two Houses of Congress.

The bill making provision for the children of Colonel John Harding and Major Alexander Trueman was read the second time, and committed to Messrs. MARSHALL, TRACY, and BROWN, to report thereon.

The bill to lay additional duties on certain articles imported was read the second time, and committed to Messrs. BINGHAM, GOODHUE, and LAURANCE, to report thereon.

The bill to retain a further sum on drawbacks, in lieu of stamp duties on debentures, was read the second time, and referred to the last mentioned committee, to report thereon.

A message from the House of Representatives informed the Senate that they have passed a bill to permit the bringing of slaves into the Mississippi Territory, in certain cases; a bill allowing rations to certain Indians; and a bill to make further appropriations for the year 1800.

The bills last brought up for concurrence were read, and severally passed to the second reading.

The bill last mentioned in the message was, by unanimous consent, read a second time, and committed to Messrs. NICHOLAS, LIVERMORE, and TRACY, to consider and report thereon.

The bill to allow rations to certain Indians was read the second time, by unanimous consent, and referred to the committee last mentioned, to consider and report thereon.

Mr. DEXTER, from the committee on the bill to authorize the issuing certain patents, reported amendments; which were agreed to, and the bill passed to the third reading as amended.

Mr. ANDERSON, from the committee to whom was referred the resolution authorizing an inquiry into the situation and extent of the vacant and

unappropriated lands claimed by the United States under the cession of the State of North Carolina, and the expediency of making provision for the disposition thereof, reported sundry resolutions.

Ordered, That they be printed for the use of the Senate; and that the consideration thereof be postponed to the next session of Congress.

The bill to permit the bringing of slaves into the Mississippi Territory, in certain cases, was read a second time, by unanimous consent, and referred to Messrs. DEXTER, READ, and BROWN, to consider and report thereon.

The bill, entitled "An act to enlarge the powers of surveyors of the revenue," was read the third time, and passed as amended.

The bill, entitled "An act to ascertain the compensation of the public Ministers," was read the third time and passed as amended.

The bill appointing the time and place of the next meeting of Congress was read the third time, and passed.

The Senate took into consideration the report of the committee on the bill making appropriations for the Navy for the year 1800, which was adopted; and, by unanimous consent, the bill was read the third time, and passed with an amendment.

A message from the House of Representatives informed the Senate that they agree to the amendments to the bill to enlarge the powers of surveyors of the revenue, with amendments. They have passed a bill to continue trading houses for the Indians; also, a resolution relative to the laws of the Mississippi Territory; in which bill and resolution they desire the concurrence of the Senate. They disagree to the amendments of the Senate to the amendment of the bill prescribing the mode of deciding disputed elections of President and Vice President of the United States.

The bill and resolution were severally read and passed to the second reading.

On motion, the consideration of the amendments disagreed to on the bill last mentioned was postponed until to-morrow.

The Senate resumed the second reading of the bill directing the payment of the militia, under the command of Major Thomas Johnson; agreed to the amendments reported by the committee; and the bill passed to the third reading as amended.

Mr. ROSS, from the committee on the bill to provide for the sale of lands between the Great and Little Miami rivers, reported the bill without amendment.

SATURDAY, May 10.

The Senate took into consideration the amendment of the House of Representatives to their amendments to the bill to enlarge the powers of the surveyors of the revenue; and disagreed thereto.

A message from the House of Representatives informed the Senate that they have passed a bill for erecting a mausoleum for GEORGE WASHINGTON; also, a bill to regulate grants of land to the refugees of Canada and Nova Scotia; in which bills they desire the concurrence of the Senate.

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The bills last mentioned were read, and severally passed to the second reading.

Mr. DEXTER, from the committee on the bill to admit, in certain cases, slaves into the Mississippi Territory, reported it without amendment.

Mr. BINGHAM, from the committee on the bill to lay additional duties on certain imported articles, reported the bill without amendment; and it was agreed that it pass to the third reading.

Mr. GUNN, from the committee on the bill to defray the expense of holding treaties with Indians, reported an amendment.

The bill for establishing trading houses with the Indians was read the second time, and committed to Messrs. ROSS, LIVERMORE, and ANDERSON, to report thereon.

Resolved, That the resolution of the Senate and House of Representatives, of the 21st day of April last, authorizing the President of the Senate and the Speaker of the House of Representatives to adjourn their respective Houses, on Monday the 12th of May instant, be repealed, and that the said President and Speaker do adjourn their respective Houses on Wednesday the 14th instant.

The Senate resumed the consideration of the resolution of the House of Representatives on the amendments of the Senate to their amendment to the bill prescribing the mode of deciding disputed elections of President and Vice President of the United States; and, on motion to recede from the amendments to the amendment, it passed in the negative—yeas 11, nays 16, as follows:

YEAS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Foster, Franklin, Marshall, Mason, Nicholas, and Pinckney.

NAYS—Messrs. Bingham, Dayton, Dexter, Greene, Gunn, Hillhouse, Howard, Latimer, Laurance, Livermore, Morris, Read, Ross, Schureman, Tracy, and Wells.

Resolved, That the Senate adhere to their said amendments.

A message from the House of Representatives informed the Senate that they insist on their amendment to the amendment to the bill to enlarge the powers of the surveyors of the revenue; ask a conference thereon, and have appointed managers on their part. They adhere to their disagreement to the amendments of the Senate to their amendment to the bill prescribing the mode of deciding disputed elections of President and Vice President of the United States. They have passed the bill supplementary to the act establishing the Mint, with an amendment; in which they desire the concurrence of the Senate. They disagree to the resolution of the Senate extending the time of adjournment of the two Houses.

The Senate agreed to the proposed conference on the amendment to the amendments to the bill to enlarge the powers of the surveyors of the revenue; and appointed Messrs. LIVERMORE and LAURANCE managers on their part.

Mr. MARSHALL, from the committee on the bill making provision for the children of Colonel John Hardin and Major Alexander Trueman, reported an amendment.

The bill, entitled "An act to authorize the is-

suing certain patents," was read the third time, amended, and passed.

The Senate took into consideration the amendment of the House of Representatives to the bill supplementary to the act establishing the Mint, and disagreed thereto.

The bill, entitled "An act directing the payment of a detachment of the militia under the command of Major Thomas Johnson, in the year 1794," was read the third time and passed with an amendment.

Mr. NICHOLAS, from the committee to whom was referred the bill to authorize certain expenditures, and to make certain appropriations for the year 1800, reported an amendment. He also reported from the committee the bill to make provision relative to rations for Indians, without amendment.

Mr. BINGHAM presented the remonstrance and petition of a number of "citizens of the Republic of America, resident in the city and county of Philadelphia," praying the Senate "to reconsider the resolutions by them adopted on the subject of privilege, in the case of William Duane;" which were read.

The Senate resumed the second reading of the bill to provide for the sale of lands between the Great and Little Miami rivers.

Resolved, That the further consideration thereof be postponed until the next session of Congress.

Mr. BINGHAM, from the committee to whom was referred the bill to retain a further sum on drawbacks, and in lieu of stamp duties on debentures, reported amendments, which were disagreed to, and the bill passed to a third reading.

On motion, that all questions respecting the election of President and Vice President of the United States ought to be decided by the House of Representatives, the votes being taken by States, and each State having one vote; it was agreed that the motion lie for consideration.

The Senate considered the amendments reported on the bill to promote the manufacture of sheet copper within the United States; and on the question to agree to the third reading of the bill, it passed in the negative; so the bill was lost.

MONDAY, May 12.

A message from the House of Representatives informed the Senate that the House concur in the bill to suspend the act to augment the Army of the United States, with amendments. They have passed a bill for the relief of persons imprisoned for debts due to the United States; in which bill they desire the concurrence of the Senate.

The bill last mentioned was read and passed to a second reading.

The Senate considered the amendments of the House of Representatives to the bill to suspend the act for the augmentation of the Army; and referred them to Messrs. TRACY, DAYTON, and GUNN, to report thereon.

The resolution relative to the laws of the Mississippi Territory, was considered and referred to

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Messrs. ANDERSON, ROSS, and MARSHALL, to report thereon.

A message from the House of Representatives informed the Senate that they insist on their amendment to the bill relative to the Mint, and ask a conference thereon, and have appointed managers on their part. They have passed a resolution prolonging the present session of Congress to the 14th, in which they desire the concurrence of the Senate.

The Senate took into consideration the resolution of the House of Representatives desiring a conference on the amendments to the bill respecting the Mint, and agreed thereto, and that Messrs. HILLHOUSE and BINGHAM be managers on the part of the Senate.

The bill entitled "An act laying additional duties on certain articles imported," was read the third time and passed.

The bill, entitled "An act to retain a further sum on drawbacks, for expenses incident to the allowance and payment thereof, and in lieu of stamp duties on debentures," was read the third time and passed.

Mr. LIVERMORE, from the managers at the conference on the bill last mentioned, made report. Whereupon,

Resolved, That the Senate agree to the modifications of the amendments, agreeably to the report of the managers.

The bill regulating grants of land appropriated for the refugees from the provinces of Canada and Nova Scotia, was read the second time, and referred to Messrs. ROSS, BROWN, and MARSHALL, to report thereon.

The bill for erecting a mausoleum for GEORGE WASHINGTON was read the second time, and the further consideration thereof postponed until the next session of Congress.

The Senate considered the amendment reported by the committee on the bill to appropriate a certain sum of money to defray the expense of treaties with the Indians, agreed thereto, and the bill then passed to the third reading as amended.

The Senate considered the amendment reported by the committee on the bill making certain appropriations for the year 1800; which was agreed to, and the bill passed to the third reading as amended.

The Senate resumed the second reading of the bill to make provision relative to rations for Indians; and agreed that it pass to the third reading.

Mr. ANDERSON notified the Senate that he should to-morrow ask leave to bring in a bill to authorize the proper officer to settle the claim of John Pitchlyn.

The Senate considered the amendments reported to the bill making further provision for the children of Colonel John Harding and Major Alexander Trueman, deceased; and, having amended the report, it was adopted, and the bill passed to the third reading as amended.

And, on motion, the Senate adjourned.

TUESDAY, May 13.

The bill making provision for persons imprisoned for debts due the United States was read the second time, and postponed to the next session of Congress.

The bill entitled "An act appropriating a certain sum of money to defray the expense of holding a treaty or treaties with the Indians," was read the third time and passed with an amendment.

The bill entitled "An act to authorize certain expenditures, and to make certain appropriations for the year 1800," was read the third time and passed with an amendment.

The bill entitled "An act making provision relative to rations for Indians, and for their visits to the seat of Government," was read the third time and passed.

The bill entitled "An act making further provision for the children of Colonel John Harding and Major Alexander Trueman, deceased," was read the third time and passed.

Mr. HILLHOUSE reported from the managers at the conference on the amendment to the bill to establish the Mint: Whereupon,

Resolved, That the Senate do insist on their said amendment.

The second reading of the bill to permit the introduction of slaves, in certain cases, into the Mississippi Territory, was resumed; and it was agreed that it pass to the third reading.

A message from the House of Representatives informed the Senate that they adhere to their amendments to the bill to establish the Mint.

The Senate resumed the consideration of the motion made the 10th of May, instant, respecting the election of President and Vice President of the United States; and, after debate, the further consideration thereof was postponed until the next session of Congress.

Mr. ANDERSON, from the committee to whom was referred the resolution repealing certain laws passed by the Governor and Judges of the Mississippi Territory, reported an amendment, which was disagreed to, and the resolution postponed to the next session of Congress.

The Senate considered the resolution of the House of Representatives, adhering to their amendment to the bill supplementary to the act establishing the Mint. Whereupon,

Resolved, That they do recede from their disagreement, and agree to the amendment of the House of Representatives.

Mr. TRACY, from the committee to whom was referred the amendment of the House of Representatives to the bill supplementary to the act to suspend part of an act to augment the Army of the United States, reported amendments thereto; which were read.

Ordered, That the committee be revived, and that the bill be recommitted for further consideration.

Mr. TRACY, from the committee, reported further amendment to the bill supplementary to the act for augmenting the Army; and the reported amendment to the amendment was adopted.

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WEDNESDAY, May 14.

The VICE PRESIDENT having, by letter, intimated his desire to be excused from further attendance, as it would probably be the last day of the session, the Senate proceeded to the choice of a President *pro tempore*, as the Constitution provides, and URIAH TRACY was duly elected.

Mr. ROSS, from the committee on the bill, entitled "An act regulating the grants of land appropriated for the refugees from the British provinces of Canada and Nova Scotia, reported an amendment, which was adopted; and it was agreed, by unanimous consent, that the bill be now read the third time, and passed.

The bill entitled "An act to permit, in certain cases, the bringing of slaves into the Mississippi Territory," was read the third time. On the question to agree to the final passage thereof, it passed in the negative—yeas 5, nays 14, as follows:

YEAS—Messrs. Anderson, Cocke, Marshall, Pinckney, and Read.

NAYS—Messrs. Baldwin, Bingham, Bloodworth, Brown, Dayton, Foster, Franklin, Greene, Hillhouse, Laurance, Livermore, Mason, Morris, and Ross.

A message from the House of Representatives informed the Senate that the House disagree to the amendment of the Senate to the bill regulating the grants of land for the refugees from the British provinces of Canada and Nova Scotia.

The Senate considered the resolution of the House of Representatives on the amendment of the Senate to the bill last mentioned.

Resolved, That they adhere to their amendment.

Mr. ROSS, from the committee on the bill making grants of lands to the inhabitants of Vincennes, and Illinois country, reported the bill without amendment; and it was agreed to postpone the bill to the next session of Congress.

Ordered, That the committee to whom was referred the bill to establish trading-houses with the Indians, be discharged; and that the bill be postponed to the next session of Congress.

A message from the House of Representatives informed the Senate that they have appointed a committee on their part, with such as the Senate may join, to wait on the President of the United States and notify him that, unless he hath any further communications to make to the two Houses of Congress, they are ready to adjourn; and they desire the appointment of a committee on the part of the Senate.

Mr. BINGHAM presented an additional remonstrance and petition of a number of "citizens of the Republic of America, residing in the city and county of Philadelphia," praying the Senate to reconsider the resolutions by them adopted on the subject of privilege, in the case of William Duane."

And on motion that the remonstrance be read, it passed in the negative—yeas 7, nays 12, as follows:

YEAS—Messrs. Baldwin, Bingham, Bloodworth, Brown, Cocke, Franklin, and Mason.

NAYS—Messrs. Dayton, Foster, Greene, Gunn, Latimer, Laurance, Livermore, Morris, Read, Ross, Tracy, and Wells.

Resolved, That the Secretary of the Senate be, and he is hereby, authorized to pay to James Mathers, acting as Sergeant-at-Arms to the Senate, out of the contingent fund, the sum of one hundred dollars, for extra services during the session.

The Senate agreed to the resolution of the House of Representatives appointing a committee, jointly with such as the Senate may appoint, to wait on the President of the United States, and notify him of the proposed adjournment of the two Houses of Congress; and it was ordered that Messrs. BINGHAM and WELLS be the committee on the part of the Senate.

Mr. BINGHAM reported, from the joint committee last mentioned, that the President of the United States had no further communication to make to Congress at this time than his best wishes for their safe return to their respective places of abode.

On motion that it be

Resolved, That the President of the United States be requested to instruct the proper law officer to commence and carry on a prosecution against William Duane, editor of the newspaper called the Aurora, for certain false, defamatory, scandalous, and malicious publications, in the said newspaper, on the 19th of February last past, tending to defame the Senate of the United States, and to bring them into contempt and disrepute, and to excite against them the hatred of the good people of the United States:

It passed in the affirmative—yeas 13, nays 4, as follows:

YEAS—Messrs. Bingham, Dayton, Foster, Greene, Gunn, Latimer, Laurance, Livermore, Morris, Read, Ross, Tracy, and Wells.

NAYS—Messrs. Bloodworth, Brown, Cocke, Franklin.

Ordered, That the Secretary lay an attested copy of the foregoing resolution before the President of the United States.

Resolved, That the thanks of the Senate of the United States be presented to the Commissioners of the City and County of Philadelphia, for the convenient and elegant accommodations furnished by them for the use of the Senate, during the residence of the National Government in the city; and that the President of the Senate be requested to convey this resolution in a letter to the said Commissioners.

The PRESIDENT, agreeably to the joint resolution of the 12th instant, adjourned the Senate, to meet again on the third Monday of November next, as the law provides.

PROCEEDINGS AND DEBATES

OF THE

HOUSE OF REPRESENTATIVES OF THE UNITED STATES,

AT THE FIRST SESSION OF THE SIXTH CONGRESS, BEGUN AT THE CITY OF PHILADELPHIA, MONDAY, DECEMBER 2, 1799.

MONDAY, December 2, 1799.

This being the Constitutional day for the annual meeting of Congress, the following members of the House of Representatives appeared, produced their credentials, and took their seats, viz:

From New Hampshire—ABIEL FOSTER, JONATHAN FREEMAN, and WILLIAM GORDON.

From Massachusetts—BAILEY BARTLETT, PHANUEL BISHOP, DWIGHT FOSTER, HARRISON G. OTIS, SILAS LEE, SAMUEL LYMAN, JOHN REED, SAMUEL SEWALL, THEODORE SEDGWICK, WILLIAM SHEPARD, GEORGE THATCHER, JOSEPH B. VARNUM, PELEG WADSWORTH, and LEMUEL WILLIAMS.

From Connecticut—JONATHAN BRACE, SAMUEL W. DANA, JOHN DAVENPORT, WILLIAM EDMOND, CHAUNCEY GOODRICH, ELIZUR GOODRICH, and ROGER GRISWOLD.

From Rhode Island—JOHN BROWN, and CHRISTOPHER G. CHAMPLIN.

From Vermont—MATTHEW LYON, and LEWIS R. MORRIS.

From New York—THEODORUS BAILEY, JOHN BIRD, WILLIAM COOPER, LUCAS ELMENDORF, HENRY GLEN, EDWARD LIVINGSTON, JONAS PLATT, JOHN THOMPSON, and PHILIP VAN CORTLAND.

From New Jersey—JOHN CONDIT, FRANKLIN DAVENPORT, JAMES H. IMLAY, AARON KITCHELL, and JAMES LINN.

From Pennsylvania—ROBERT BROWN, ANDREW GREGG, ALBERT GALLATIN, JOHN A. HANNA, JOSEPH HEISTER, JOHN WILKES KITTERA, MICHAEL LEIB, PETER MUHLENBERG, JOHN SMILIE, RICHARD THOMAS, ROBERT WALN, and HENRY WOODS.

From Maryland—GEORGE BAER, WILLIAM CRAIK, GABRIEL CHRISTIE, GEORGE DENT, JOSEPH H. NICHOLSON, SAMUEL SMITH, and JOHN CHEW THOMAS.

From Virginia—JOHN DAWSON, THOMAS EVANS, DAVID HOLMES, GEORGE JACKSON, JOHN MARSHALL, JOHN NICHOLAS, ANTHONY NEW, LEVEN POWELL, JOHN RANDOLPH, ABRAM TRIGG, and JOHN TRIGG.

From North Carolina—WILLIS ALSTON, JOSEPH DICKSON, ARCHIBALD HENDERSON, WILLIAM H. HILL, NATHANIEL MACON, RICHARD STANFORD, and DAVID STONE.

From South Carolina—ROBERT GOODLOE

HARPER, ABRAHAM NOTT, JOHN RUTLEDGE, JR., and THOMAS SUMTER.

From Georgia—JAMES JONES, BENJAMIN TALIAFERRO.

From Tennessee—WILLIAM CHARLES COLE CLAIBORNE

A quorum of the whole number of members being present, the House proceeded to the election of a SPEAKER; when, on counting the ballots, the tellers reported that Mr. SEDGWICK had 42 votes; Mr. MACON, 27; Mr. DENT, 13; Mr. RUTLEDGE, 2; Mr. SUMTER, 1.

That the whole number of votes were 85, and the rules of the House requiring a majority of the members present to constitute a choice, neither of the above gentlemen were elected.

The House then proceeded to a second trial; when Mr. SEDGWICK had 44 votes; Mr. MACON, 38; Mr. DENT, 3; Mr. RUTLEDGE, 1.

Whereupon Mr. SEDGWICK was declared duly elected, and conducted to the Chair accordingly.

Mr. SEDGWICK, upon taking the Chair, addressed the House in the following words:

"GENTLEMEN: Although I am conscious of a deficiency of the talents which are desirable to discharge with usefulness and dignity the important duties of the high station to which I am raised, by the generous regard of the enlightened and virtuous representatives of my country, yet, reposing myself on the energy of their candid support, I will not shrink from the attempt.

"Accept, I pray you, gentlemen, my grateful acknowledgment of the honor you are pleased to confer; and, with it, an assurance, that no consideration shall seduce me to deviate, in the least degree, from a direct line of impartial integrity."

A message was received from the Senate, informing the House that a sufficient number of members appearing to form a quorum, they had proceeded to the choice of a President *pro tempore*, when HON. SAMUEL LIVERMORE was elected.

The House proceeded to the choice of a Clerk; when it appeared Jonathan W. Condry had 47 votes, John Beckley, 39.

Whereupon Mr. CONDY was declared by the SPEAKER to be duly elected.

Ordered That a message be sent to the Senate, to inform that body of the election of the Hon. THEODORE SEDGWICK, as Speaker of the House of Representatives.

H. OF R.

President's Speech.

DECEMBER, 1799.

On motion of Mr. MACON, the House proceeded to the choice of a Sergeant-at-Arms, Doorkeeper, and Assistant Doorkeeper; when JOSEPH WHEATON, THOMAS CLAXTON, and THOMAS DUNN, were unanimously elected.

The oath to support the Constitution of the United States, as prescribed by the act, entitled "An act to regulate the time and manner of administering certain oaths," was administered by Mr. RUTLEDGE, one of the Representatives for the State of South Carolina, to the SPEAKER, and then the same oath or affirmation was administered by Mr. SPEAKER to each of the members present.

WILLIAM HENRY HARRISON having also appeared, as a Representative for the Territory of the United States Northwest of the River Ohio, the said oath was administered to him by Mr. SPEAKER.

The same affirmation, together with the affirmation of office prescribed by the said recited act, were also administered by Mr. SPEAKER to the Clerk.

A message was received from the Senate, informing the House, that they had passed a resolution, appointing a joint committee to wait on the PRESIDENT OF THE UNITED STATES, and inform him that Congress had met and were ready to receive any communications he might think proper to make; and, in case of concurrence, that Messrs. READ and BINGHAM were appointed a committee on behalf of the Senate.

The House concurred in the resolution, and Messrs. MARSHALL, RUTLEDGE, and SEWALL, were appointed to wait on the PRESIDENT, in conjunction with the committee from the Senate.

The following letter was read by the SPEAKER:

72 WELBECK-STREET, LONDON.
September 20, 1798.

SIR: I beg leave, through you, to offer to the House of Representatives of the United States, impressions of the two prints of the American Revolution, which I have lately caused to be published.*

The importance of the events, and the illustrious characters of the two great men to whose memory they are particularly devoted, give to these works their best claim to your notice; and the patriotism of my countrymen, I trust, will give them a kinder reception than their intrinsic merit might entitle me to hope.

With great respect, I have the honor to be, sir, your most obedient, humble servant,

JNO. TRUMBULL.

The SPEAKER of the House of Reps. U. S.

Resolved, That the rules and orders of proceeding established by the late House of Representatives, shall be deemed and taken to be the rules and orders of proceeding to be observed in this House, until a revision or alteration of the same shall take place.

Resolved, That each member be furnished with three newspapers, printed in this city, during the session, at the expense of this House.

*The prints referred to by Mr. Trumbull, in his letter to the Speaker of the House of Representatives, are, first, a representation of the Battle of Quebec, and death of General Montgomery; second, the Battle of Banker's Hill—both elegant engravings. They are placed on the right and left of the Speaker's chair, and are highly ornamental to the Representatives' Chamber.

Mr. MARSHALL, from the joint committee appointed to wait on the PRESIDENT OF THE UNITED STATES, reported, that they had performed that service; and that the PRESIDENT had appointed to-morrow forenoon, 12 o'clock, to meet both Houses in the Representatives' Chamber.

The House then adjourned, till to-morrow morning at eleven o'clock.

TUESDAY, December 3.

JAMES A. BAYARD, from Delaware, appeared produced his credentials, was qualified, and took his seat in the House.

PRESIDENT'S SPEECH.

Ordered, That a message be sent to the Senate to inform them that this House is now ready to attend them in receiving the communication from the President of the United States, agreeably to his notification to both Houses yesterday.

The Senate attended and took seats in the House; when, both Houses being assembled, the PRESIDENT OF THE UNITED STATES came into the Representatives' Chamber, and addressed them as follows:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

It is with peculiar satisfaction that I meet the sixth Congress of the United States of America. Coming from all parts of the Union, at this critical and interesting period, the members must be fully possessed of the sentiments and wishes of our constituents.

The flattering prospects of abundance, from the labors of the people, by land and by sea; the prosperity of our extended commerce, notwithstanding interruptions occasioned by the belligerent state of a great part of the world; the return of health, industry, and trade, to those cities which have lately been afflicted with disease; and the various and inestimable advantages, civil and religious, which, secured under our happy frame of Government, are continued to us unimpaired, demand, of the whole American people, sincere thanks to a benevolent Deity, for the merciful dispensations of his providence.

But, while these numerous blessings are recollected, it is a painful duty to advert to the ungrateful return which has been made for them, by some of the people, in certain counties of Pennsylvania, where, seduced by the arts and misrepresentations of designing men, they have openly resisted the law directing the valuation of houses and lands. Such defiance was given to the civil authority as rendered hopeless all further attempts, by judicial process, to enforce the execution of the law; and it became necessary to direct a military force to be employed, consisting of some companies of regular troops, volunteers, and militia, by whose zeal and activity, in co-operation with the judicial power, order and submission were restored, and many of the offenders arrested. Of these, some have been convicted of misdemeanors, and others, charged with various crimes, remain to be tried.

To give due effect to the civil administration of Government, and to insure a just execution of the laws, a revision and amendment of the judiciary system is indispensably necessary. In this extensive country it cannot but happen that numerous questions respecting the interpretation of the laws, and the rights and duties

DECEMBER, 1799.

President's Speech.

H. OF R.

of officers and citizens, must arise. On the one hand, the laws should be executed; on the other, individuals should be guarded from oppression. Neither of these objects is sufficiently assured under the present organization of the Judicial Department. I therefore earnestly recommend the subject to your serious consideration.

Persevering in the pacific and humane policy which had been invariably professed and sincerely pursued by the Executive authority of the United States, when indications were made on the part of the French Republic, of a disposition to accommodate the existing differences between the two countries, I felt it to be my duty to prepare for meeting their advances, by a nomination of Ministers upon certain conditions, which the honor of our country dictated, and which its moderation had given a right to prescribe. The assurances which were required of the French Government, previous to the departure of our Envoys, have been given through their Minister of Foreign Relations, and I have directed them to proceed on their mission to Paris. They have full power to conclude a treaty, subject to the Constitutional advice and consent of the Senate. The characters of these gentlemen are sure pledges to their country that nothing incompatible with its honor or interest, nothing inconsistent with our obligations of good faith or friendship to any other nation, will be stipulated.

It appearing probable, from the information I received, that our commercial intercourse with some ports in the island of St. Domingo might safely be renewed, I took such steps as seemed to me expedient to ascertain that point. The result being satisfactory, I then, in conformity with the act of Congress on the subject, directed the restraints and prohibitions of that intercourse to be discontinued, on terms which were made known by proclamation. Since the renewal of this intercourse, our citizens, trading to those ports, with their property, have been duly respected, and privateering from those ports has ceased.

In examining the claims of British subjects, by the Commissioners at Philadelphia, acting under the sixth article of the Treaty of Amity, Commerce, and Navigation, with Great Britain, a difference of opinion, on points deemed essential, in the interpretation of that article, has arisen between the Commissioners appointed by the United States and the other members of that Board, from which the former have thought it their duty to withdraw. It is sincerely to be regretted that the execution of an article produced by a mutual spirit of amity and justice, should have been thus unavoidably interrupted. It is, however, confidently expected that the same spirit of amity, and the same sense of justice in which it originated, will lead to satisfactory explanations. In consequence of the obstacles to the progress of the commission in Philadelphia, His Britannic Majesty has directed the Commissioners appointed by him under the seventh article of the Treaty, relating to British captures of American vessels, to withdraw from the Board sitting in London: but with the express declaration of his determination to fulfil, with punctuality and good faith, the engagements which His Majesty has contracted by his Treaty with the United States; and that they will be instructed to resume their functions, whenever the obstacles which impede the progress of the commission at Philadelphia shall be removed. It being, in like manner, my sincere determination, so far as the same depends on me, that, with equal punctuality and good faith, the engagements contracted by the United States in their treaties with His Britannic Majesty shall be fulfilled, I shall immediately instruct our

Minister at London to endeavor to obtain the explanations necessary to a just performance of those engagements, on the part of the United States. With such dispositions on both sides, I cannot entertain a doubt that all difficulties will soon be removed, and that the two boards will then proceed and bring the business committed to them, respectively, to a satisfactory conclusion.

The act of Congress relative to the seat of the Government of the United States, requiring that, on the first Monday of December next, it should be transferred from Philadelphia to the district chosen for its permanent seat, it is proper for me to inform you that the Commissioners appointed to provide suitable buildings for the accommodation of Congress and of the President, and for the public offices of the Government, have made a report of the state of the buildings designed for those purposes in the city of Washington; from which they conclude that the removal of the seat of Government to that place, at the time required, will be practicable, and the accommodations satisfactory. Their report will be laid before you.

Gentlemen of the House of Representatives:

I shall direct the estimates of the appropriations necessary for the service of the ensuing year, together with an account of the revenue and expenditure, to be laid before you. During a period in which a great portion of the civilized world has been involved in a war unusually calamitous and destructive, it was not to be expected that the United States could be exempted from extraordinary burdens. Although the period is not arrived when the measures adopted to secure our country against foreign attacks can be renounced, yet it is alike necessary to the honor of the Government and the satisfaction of the community, that an exact economy should be maintained. I invite you, gentlemen, to investigate the different branches of the public expenditure; the examination will lead to beneficial retrenchments, or produce a conviction of the wisdom of the measures to which the expenditure relates.

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

At a period like the present, when momentous changes are occurring, and every hour is preparing new and great events in the political world, when a spirit of war is prevalent in almost every nation with whose affairs the interests of the United States have any connexion, unsafe and precarious would be our situation were we to neglect the means of maintaining our just rights. The result of the mission to France is uncertain; but, however it may terminate, a steady perseverance in a system of national defence, commensurate with our resources and the situation of our country, is an obvious dictate of wisdom: for, remotely as we are placed from the belligerent nations, and desirous as we are, by doing justice to all, to avoid offence to any, nothing short of the power of repelling aggressions will secure to our country a rational prospect of escaping the calamities of war, or national degradation. As to myself, it is my anxious desire so to execute the trust reposed in me, as to render the people of the United States prosperous and happy. I rely, with entire confidence, on your co-operation in objects equally your care; and that our mutual labors will serve to increase and confirm union among our fellow-citizens, and an unshaken attachment to our Government.

JOHN ADAMS.

UNITED STATES, December 3, 1799.

H. OF R.

President's Speech, &c.

DECEMBER, 1799.

The President of the United States then withdrew and the two Houses separated.

A copy of the speech being delivered by the PRESIDENT to the SPEAKER, and read by the Clerk, it was ordered, that it be committed to a Committee of the whole House to-morrow.

WEDNESDAY, December 4.

Mr. LIVINGSTON said he conceived some notice ought to be taken of the letter received from Mr. Trumbull, and therefore moved that it be referred to a select committee. Agreed to, and Messrs. LIVINGSTON, TALIAFERRO, and HILL, were appointed.

THE PRESIDENT'S SPEECH.

The House went into a Committee of the Whole on the President's Speech, Mr. RUTLEDGE in the Chair. The Speech having been read,

Mr. MARSHALL moved the following resolution, which was agreed to by the Committee, viz :

Resolved, That it is the opinion of this Committee, that a respectful Address ought to be presented by the House of Representatives to the President of the United States, in answer to his Speech to both Houses of Congress, on the opening of the present session, containing assurances that this House will duly attend to the important objects recommended by him to their consideration.

The Committee rose, and the resolution having been agreed to by the House, Messrs. MARSHALL, RUTLEDGE, SEWALL, LIVINGSTON, and NICHOLAS, were appointed a committee to draught the Address.

CHAPLAIN TO THE HOUSE.

A message from the Senate announced that they had passed a resolution for the appointment of two Chaplains to Congress, to which they requested the concurrence of the House.

The resolution having been concurred in, Dr. GREEN was chosen on the part of this House.

THURSDAY, December 5.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, enclosing a report from the Commissioners appointed to superintend the public buildings in the City of Washington.

On motion of Mr. BAYARD, the following resolution was agreed to by the House :

"Resolved, That a committee be appointed to prepare and bring in a bill for the establishment of a uniform system of bankruptcy throughout the United States."

MESSRS. BAYARD, MARSHALL, C. GOODRICH, SEWALL, and HARPER, were appointed.

A message was received from the Senate, informing the House that the Right Rev. Bishop WHITE had been chosen on their part, as Chaplain to Congress.

Mr. OTIS moved the following resolution, which was agreed to by the House :

"Resolved, That a committee be appointed to consider whether it be expedient to make any and, if any, what provision for persons confined for debt, and that they report by bill or otherwise."

MESSRS. OTIS, BIRD, and STONE, were appointed.

STANDING COMMITTEES.

On motion of Mr. LIVINGSTON, the House ordered the appointment of the following Standing Committees, viz :

Committee of Elections—Mr. DANA, Mr. SUMTER, Mr. KITTERA, Mr. NEW, Mr. HENDERSON, Mr. GORDON, and Mr. BAILEY.

Committee of Claims—Mr. D. FOSTER, Mr. MACON, Mr. BRACE, Mr. MORRIS, Mr. IMLAY, Mr. HANNA, and Mr. JOHN CHEW THOMAS.

Committee of Commerce—Mr. SMITH, Mr. SEWALL, Mr. WALN, Mr. RUTLEDGE, Mr. JOHN BROWN, Mr. FRANKLIN DAVENPORT, and Mr. TALIAFERRO.

Committee of Revisal and Unfinished Business—Mr. GRISWOLD, Mr. EVANS, and Mr. DENT.

The following Message was received from the PRESIDENT OF THE UNITED STATES :

Gentlemen of the Senate, and

Gentlemen of the House of Representatives :

I herewith transmit to Congress certain documents which relate to the late insurrection in Pennsylvania, the opening of trade and intercourse with the island of St. Domingo, and the mission to the French Republic; promised in my address to both Houses of Congress, on Tuesday last.

JOHN ADAMS.

UNITED STATES Dec. 5, 1799.

The Message and documents were read, and ordered to lie on the table.

[The following are the documents which accompanied the above Message: (See *Appendix*.)

I.—*Insurrection in Northampton, &c.*

A letter from the Hon. Richard Peters to the Secretary of State, enclosing a declaration of William Nichols, Esq., Marshal of the district of Pennsylvania; a deposition of Valentine ———; and the deposition of Jacob Eyerly, Esq.

A proclamation of the President relative to the Northampton insurrection.

A letter from the Secretary of War to the Governor of Pennsylvania, designating the different companies of troops required from that State to march upon the expedition.

Instructions from the Secretary at War, to Brigadier General Macpherson, commanding the expedition.

II.—*St. Domingo.*

A proclamation of the President of the United States, for opening trade and intercourse with the island of St. Domingo.

III.—*Mission to the French Republic.*

A letter from Patrick Henry, Esq. to the Secretary of State, declining the appointment of Envoy, owing to his indisposition, and the distance of the scene at which the negotiations are contemplated to take place.

Copy of a letter from Citizen Talleyrand, dated Paris, 11th Fructidor, to the Citizen Pichon, Secretary of the French Legation at the Hague, approving the conduct of that agent, in communicating to Mr. Murray the pacific disposition of the French Republic towards the United States.

Another letter from Talleyrand to Pichon, dated Paris, 28th September, 1798, authorizing him to communicate the pacific sentiments contained in the preceding to Mr. Murray; and of the sincere disposition of the Directory to accelerate an amicable adjustment of all existing differences; and the respect with which an American Envoy would be received.

DECEMBER, 1799.

Address to the President.

H. OF R.

A letter from the Secretary of State to Mr. Murray, enclosing his appointment as Envoy to the French Republic, in conjunction with Mr. Ellsworth, Chief Justice of the United States, and P. Henry, Esq. of Virginia; and the condition (to be expressed to the Directory) on which the Envoys would repair to Paris: or, if more agreeable to the Directory, a Minister from the French Republic would be received at Philadelphia.

A letter from Mr. Murray to the Secretary of State, accepting the appointment of Envoy to the French Republic.

A letter from Mr. Murray to the Minister of Foreign Relations, dated at the Hague, acquainting him with the nomination of the Envoys, and the stipulations expressed in the letter from the Secretary of State to Mr. Murray.

A letter from the Minister of Foreign Relations, in answer to the above, dated 12th May, 1799, containing assurances that they shall enjoy all the prerogatives attached to the mission by the laws of nations, and a Minister of equal quality be appointed to treat with them; and that passports would be granted for their safe conveyance to Paris.]

FRIDAY, December 6.

EDWIN GRAY, from Virginia, and WILLIAM BARRY GROVE, from North Carolina, appeared this day, were qualified, and took their seats.

Mr. HARRISON moved the following resolution, which was ordered to lie on the table, to wit:

“Resolved, That a committee be appointed to inquire and report, by bill or otherwise, whether any, and what, alterations are necessary to be made in the judicial establishment of the Territory of the United States Northwest of the river Ohio.”

Mr. MARSHALL, from the committee appointed to draught an Address in answer to the Speech of the President of the United States, at the commencement of the present session, reported the same, which was committed to a Committee of the Whole on Monday next, and ordered to be printed.

Mr. LIVINGSTON, from the committee to whom was referred the letter of Mr. Trumbull, reported the following resolution, which was adopted by the House:

“Resolved, That the two elegant prints offered by Mr. Trumbull, be accepted; and that the Speaker be instructed to write an answer, expressive of the pleasure with which this House has observed his genius and talents exerted in the patriotic task of celebrating the events which led to his country's independence, and dedicated to the memory of those heroes who fell in its defence.”

On motion of Mr. BAYARD, the President's Speech was referred to a Committee of the Whole on the state of the Union.

MONDAY, December 9.

JOSIAH PARKER and ROBERT PAGE, from Virginia, appeared, produced their credentials, were qualified, and took their seats.

ADDRESS TO THE PRESIDENT.

The House resolved itself into a Committee of the Whole, on the Address to be presented to the

6th CON.—7

President of the United States, in answer to his Speech to both Houses, at the commencement of the present session.

Mr. GREGG moved, that the words distinguished by italics, in the third and fourth lines of the second paragraph of the Address, be struck out, and that the words “act in” be inserted in their stead; which produced a short debate, and was finally negatived.

The Committee then rose, and the Address was reported without amendment; and was agreed to by the House, in the words following, viz:

To the President of the United States:

SIR: While the House of Representatives contemplate the flattering prospects of abundance from the labors of the people, by land and by sea, the prosperity of our extended commerce, notwithstanding the interruptions occasioned by the belligerent state of a great part of the world, the return of health, industry and trade, to those cities which have lately been afflicted with disease, and the various and inestimable advantages, civil and religious, which, secured under our happy frame of Government, are continued to us unimpaired, we cannot fail to offer up to the benevolent Deity our sincere thanks for these the merciful dispensations of his protecting Providence.

That any portion of the people of America should permit themselves, amid such numerous blessings, to be seduced by the arts and misrepresentations of designing men into an open resistance of a law of the United States, cannot be heard without deep and serious regret. Under a Constitution where the public burdens can only be imposed by the people themselves, for their own benefit, and to promote their own objects, a hope might well have been indulged that the general interest would have been too well understood, and the general welfare too highly prized, to have produced in any of our citizens a disposition to hazard so much felicity, by the criminal effort of a part, to oppose with lawless violence the will of the whole. While we lament that depravity which could produce a defiance of the civil authority, and render indispensable the aid of the military force of the nation, real consolation is to be derived from the promptness and fidelity with which that aid was afforded. That zealous and active co-operation with the judicial power, of the volunteers and militia called into service, which has restored order and submission to the laws, is a pleasing evidence of the attachment of our fellow-citizens to their own free Government, and of the truly patriotic alacrity with which they will support it.

To give due effect to the civil administration of Government, and to insure a just execution of the laws, are objects of such real magnitude as to secure a proper attention to your recommendation of a revision and amendment of the judiciary system.

Highly approving, as we do, the pacific and humane policy which has been invariably professed and sincerely pursued by the Executive authority of the United States, a policy which our best interests enjoined and of which honor has permitted the observance, we consider as the most unequivocal proof of your inflexible perseverance in the same well chosen system, your preparation to meet the first indications on the part of the French Republic, of a disposition to accommodate the existing differences between the two countries, by a nomination of Ministers on certain conditions, which the honor of our country unquestionably dictated, and which its moderation had certainly given it a right to prescribe. When the assurances thus required of the French Government, previous to the departure of our Envoys, had been given

H. OF R.

Address to the President.

DECEMBER, 1799.

through their Minister of Foreign Relations, the direction that they should proceed on their mission, was, on your part, a completion of the measure, and manifests the sincerity with which it was commenced. We offer up our fervent prayers to the Supreme Ruler of the Universe for the success of their embassy, and that it may be productive of peace and happiness to our common country. The uniform tenore of your conduct, through a life useful to your fellow-citizens and honorable to yourself, gives a sure pledge of the sincerity with which the avowed objects of the negotiation will be pursued on your part, and we earnestly pray that similar dispositions may be displayed on the part of France. The differences which unfortunately subsist between the two nations, cannot fail, in that event, to be happily terminated. To produce this end, to all so desirable, firmness, moderation, and union at home, constitute, we are persuaded, the surest means. The character of the gentlemen you have deputed, and still more, the character of the Government which deutes them, are safe pledges to their country, that nothing incompatible with its honor or interest, nothing inconsistent with our obligations of good faith or friendship to any other nation, will be stipulated.

We learn, with pleasure, that our citizens, with their property, trading to those ports of St. Domingo with which commercial intercourse has been renewed, have been duly respected, and that privateering from those ports has ceased.

With you, we sincerely regret that the execution of the sixth article of the Treaty of Amity, Commerce, and Navigation, with Great Britain, an article produced by a mutual spirit of amity and justice, should have been unavoidably interrupted. We doubt not that the same spirit of amity, and the same sense of justice in which it originated, will lead to satisfactory explanations; and we hear with approbation that our Minister at London will be immediately instructed to obtain them. While the engagements which America has contracted by her Treaty with Great Britain, ought to be fulfilled with that scrupulous punctuality and good faith to which our Government has ever so tenaciously adhered, yet no motive exists to induce, and every principle forbids us to adopt a construction which might extend them beyond the instrument by which they are created. We cherish the hope that the Government of Great Britain will disclaim such extension, and by cordially uniting with that of the United States for the removal of all difficulties, will soon enable the boards appointed under the sixth and seventh articles of our treaty with that nation, to proceed, and bring the business committed to them respectively to a satisfactory conclusion.

The buildings for the accommodation of Congress, and of the President, and for the public offices of the Government at its permanent seat, being in such a state as to admit of a removal to that District by the time prescribed by the act of Congress, no obstacle, it is presumed, will exist to a compliance with the law.

With you, sir, we deem the present period critical and momentous. The important changes which are occurring, the new and great events which are every hour preparing in the political world, the spirit of war which is prevalent in almost every nation with whose affairs the interests of the United States have any connexion, demonstrate how unsafe and precarious would be our situation, should we neglect the means of maintaining our just rights. Respecting, as we have ever done, the rights of others, America estimates too correctly the value of her own, and has received evidence too complete that they are only to be preserved by her

own vigilance, ever to permit herself to be seduced by a love of ease, or by other considerations, into that deadly disregard of the means of self-defence, which could only result from a carelessness as criminal as it would be fatal concerning the future destinies of our growing Republic. The result of the mission to France is, indeed, sir, uncertain. It depends not on America alone. The most pacific temper will not always insure peace. We should therefore exhibit a system of conduct as indiscreet as it would be new in the history of the world, if we considered the negotiation happily terminated because we have attempted to commence it, and peace restored because we wish its restoration. But, sir, however this mission may terminate, a steady perseverance in a system of national defence, commensurate with our resources and the situation of our country, is an obvious dictate of duty. Experience, the parent of wisdom, and the great instructor of nations, has established the truth of your position, that, remotely as we are placed from the belligerent nations, and desirous as we are, by doing justice to all, to avoid offence to any, yet nothing short of the power of repelling aggressions will secure to our country a rational prospect of escaping the calamities of war or national degradation.

In the progress of the session, we shall take into our serious consideration the various and important matters recommended to our attention.

A life devoted to the service of your country, talents and integrity which have so justly acquired and so long retained the confidence and affection of your fellow-citizens, attest the sincerity of your declaration, that it is your anxious desire so to execute the trust reposed in you as to render the people of the United States prosperous and happy.

Resolved, That the SPEAKER, attended by the House, do present the said Address.

MESSRS. MARSHALL, RUTLEDGE, and SEWALL, were appointed a committee to wait on the President, to know when and where he would be ready to receive the Address; and having performed that service, reported, that the President had appointed to-morrow, two o'clock, for that purpose, at his own house.

PRESIDENT'S SPEECH.

The House went into Committee of the Whole on the state of the Union, to take into consideration the several objects recommended in the President's Speech.

Mr. D. FOSTER moved the following resolutions, which were agreed to by the Committee, viz :

1. *Resolved*, That so much of the Speech of the President of the United States, to both Houses of Congress, at the commencement of the present session, as relates to a revision and amendment of the judiciary system, be referred to a committee, with leave to report by bill, bills, or otherwise.

2. *Resolved*, That so much of the Speech of the President of the United States, to both Houses of Congress, at the commencement of the present session, as relates to the expenditure of public moneys, be referred to a committee of Ways and Means.

3. *Resolved*, That so much of the Speech of the President of the United States, to both Houses of Congress, at the commencement of the present session, as relates to a system of national defence, commensurate with our resources and the situation of our country, be referred to a committee.

DECEMBER, 1799.

Address to the President.

H. OF R.

The Committee then rose, and the House having taken up the consideration of the resolutions, as reported, the first and third were agreed to; and on motion of Mr. DENT, the question on agreeing to the second, was postponed till to-morrow.

Ordered, That Mr. HARPER, Mr. CHAUNCEY GOODRICH, Mr. BAYARD, Mr. MARSHALL, and Mr. SEWALL, be appointed a committee, pursuant to the first resolution.

Ordered, That Mr. OTIS, Mr. NICHOLAS, Mr. EDMOND, Mr. ABIEL FOSTER, Mr. CHAMPLIN, Mr. WALN, and Mr. HILL, be appointed a committee, pursuant to the third resolution.

COMMITTEE OF WAYS AND MEANS.

On motion of Mr. GALLATIN, the House ordered the appointment of a standing committee of Ways and Means. A motion that it consist of one member from each State, was made; but on Mr. HARPER's observing that nine were found a sufficient number last session, and were able to obtain every information, and would be more expeditious in doing business, the latter motion was agreed to.

Ordered, That Mr. HARPER, Mr. GRISWOLD, Mr. OTIS, Mr. GALLATIN, Mr. POWELL, Mr. JOHN BROWN, Mr. STONE, Mr. NOTT, and Mr. PLATT, be appointed.

Ordered, That the credentials of WILLIAM HENRY HARRISON, who has appeared as a Delegate from the Territory of the United States Northwest of the river Ohio, be referred to the Committee of Elections; and that they be directed to report whether the Territory is entitled to elect a Delegate who may have a seat in this House.

TUESDAY, December 10.

MATTHEW CLAY, from Virginia, appeared produced his credentials, was qualified, and took his seat in the House.

Mr. GRISWOLD from the Committee of Revision and Unfinished Business, made a report, which was ordered to be printed.

The House resumed the consideration of the resolution postponed yesterday, which, after being read, was agreed to in the words following, to wit:

Resolved, That so much of the Speech of the President of the United States to both Houses of Congress, at the commencement of the present session, as relates to the expending of public moneys, be referred to the Committee of Ways and Means.

Mr. CLAIBORNE moved the following resolution, which was adopted:

Resolved, That a committee be appointed to inquire whether any, and what, provision ought to be made, by law, for the punishment of such persons as may be discovered in making attempts to alienate the affections of any Indian nation, tribe, or chief, from the United States; or in exciting them to hostilities against the United States; or to the violation of any existing treaty; and that the said committee be authorized to report by bill or otherwise.

Mr. HARRISON called up the consideration of the resolution which he laid upon the table on Friday last, relative to the judiciary establishment

of the Territory of the United States Northwest of the river Ohio; and the resolution having been read, on motion, it was agreed to by the House.

Messrs. CRAIK, HARRISON, and BIRD, were appointed the committee.

Mr. HARRISON presented a petition of Lardner Clark, a citizen of the United States, residing at Kaskaskias, in the Northwestern Territory, praying for the confirmation of his title to a certain tract of land granted under the old French Government, the papers ascertaining his right to which had been lost or destroyed. Referred to a select committee.

On motion of Mr. DAWSON,

Ordered, That leave be given to bring in a bill or bills, providing for an enumeration of the inhabitants of the United States; and that the Committee of Ways and Means do prepare and bring in the same.

On motion of Mr. CLAIBORNE, the House came to the following resolution:

Resolved, That a committee be appointed to inquire whether any, and what, amendments are necessary to be made in the acts establishing a Post Office and post roads within the United States.

Messrs. THATCHER, WOOD, NEW, CLAIBORNE, and GROVE, were appointed the committee.

ADDRESS TO THE PRESIDENT.

The hour having arrived which the PRESIDENT had appointed, Mr. SPEAKER, attended by the members present, proceeded to the President's house, to present him their Address in answer to his Speech at the opening of the present session; and having returned, the President's reply thereto was read, as follows:

Gentlemen of the House of Representatives:

This very respectful address from the Representatives of the people of the United States at their first assembly, after a fresh election, under the strong impression of the public opinion and national sense, at this interesting and singular crisis of our public affairs, has excited my sensibility, and receives my sincere and grateful acknowledgments.

As long as we can maintain, with harmony and affection, the honor of our country, consistently with its peace, externally and internally, while that is attainable, or in war, when that becomes necessary, assert its real independence and sovereignty, and support the Constitutional energies and dignity of its Government, we may be perfectly sure, under the smiles of Divine Providence, that we shall effectually promote and extend our national interests and happiness.

The applause of the Senate and House of Representatives, so justly bestowed upon the volunteers and militia, for their zealous and active co-operation with the judicial power, which has restored order and submission to the laws, as it comes with peculiar weight and propriety from the Legislature, cannot fail to have an extensive and permanent effect, for the support of Government, upon all those ingenuous minds who receive delight from the approving and animating voice of their country.

JOHN ADAMS.

UNITED STATES, December 10.

And then the House adjourned till to-morrow morning, 11 o'clock.

H. OF R.

Direct Tax Law, &c.

DECEMBER, 1799.

WEDNESDAY, December 11.

HENRY LEE, from Virginia, appeared, produced his credentials, was qualified, and took his seat in the House.

MR. D. FOSTER laid the following resolution on the table:

Resolved, That a committee be appointed to inquire whether any, and, if any, what alterations ought to be made in the law, entitled "An act to prohibit the carrying on the slave trade from the United States to any foreign country;" and that the committee have power to report by bill or otherwise.

THE DIRECT TAX LAW.

MR. HARPER said, that a difficulty had arisen in the State of Pennsylvania, relative to the execution of the law "for the valuation of lands and dwelling-houses, and for the enumeration of slaves, within the United States," which the Commissioners for that State did not conceive themselves competent to decide upon; that the Commissioners had referred the case to the Secretary of the Treasury, whose opinion it was, that they were possessed of sufficient power to obviate the difficulties complained of; but the Commissioners, on again taking the subject into consideration, were still of opinion they were unable to act without legislative aid, and therefore had made application to the Committee of Ways and Means, who, Mr. H. said, had directed him to move for leave to bring in a bill, further to amend the act entitled "An act to provide for the valuation of lands and dwelling-houses, and for the enumeration of slaves, within the United States," which was granted.

FRANKING PRIVILEGE TO W. H. HARRISON.

MR. HARPER laid the following resolution on the table.

Resolved, That a committee be appointed to prepare and bring in a bill, extending the privilege of franking to W. H. Harrison, a delegate from the Territory of the United States Northwest of the river Ohio, and making provision for his compensation.

MR. H. said, that according to law, that gentleman had the right only of speaking and giving his opinion upon any question before the House, but was not entitled to a vote, or any other privilege; but as the privileges of a member had been extended on a former occasion to a delegate from the Southwestern Territory, he had no doubt they would be granted on the present.

UNFINISHED BUSINESS.

MR. GRISWOLD, from the Committee of Revision and Unfinished Business, moved the following resolution, which was adopted by the House, viz:

Resolved, That all petitions which were depending and undecided at the last session of Congress, ought to be taken up and acted upon by the House, as the same may be called for by any member, or upon the application of the individual claimant or petitioner.

THURSDAY, December 12.

MR. OTIS moved the following resolution, which was agreed to by the House:

Resolved, That a committee be appointed, whose

duty it shall be to make inquiry into the state of the naval equipments ordered by former acts of Congress; to consider whether any, and what, other naval force may be necessary for the protection of the commerce of the United States, and for the support of its flag; and whether any, and what, alterations ought to be made in the law relative to the Navy of the United States.

MESSRS. PARKER, OTIS, RUTLEDGE, CRAIK, and CHAMPLIN, were appointed the committee.

MR. D. FOSTER called up the resolution which he laid on the table on Tuesday, relative to the slave trade; and the same having been read, was agreed to by the House.

MESSRS. DWIGHT FOSTER, BIRD, and JONES, were appointed committee.

MR. SEWALL moved that when the House adjourn it do adjourn till Monday. After a few observations from Mr. RUTLEDGE, who said time ought to be given to the committees to prepare their reports, and, until made, there was little else to occupy the attention of the House; the question was put and carried, 48 rising in favor of it.

MONDAY, December 16.

THOMAS HARTLEY, from Pennsylvania, and JOSEPH EGGLESTON, from Virginia, appeared, produced their credentials, were qualified, and took their seats in the House.

MR. GREGG presented a petition of Robert Sturgeon, late a revenue officer of the United States, in the county of Mifflin, State of Pennsylvania, and now in the jail of the said county, for arrearages of money due by him to the United States, praying that a law may be passed for his liberation; which was read, and referred to a Committee of the Whole.

MR. CLAIBORNE, from the committee appointed to inquire whether any, and what, provision ought to be made for the punishment of such persons as may be discovered in making attempts to alienate the affections of the Indians on our frontiers from the United States, reported "a bill for the preservation of peace with the Indian tribes;" which was read a first and second time, and referred to a Committee of the Whole on Wednesday.

MR. OTIS, pursuant to leave given for that purpose, reported "a bill extending the privilege of franking to William Henry Harrison, a delegate from the Territory of the United States Northwest of the river Ohio, and making provision for his compensation;" which was read a first and second time, and committed to a Committee of the Whole to-morrow.

MR. DANA, from the Committee of Elections, made a report, certifying the due election of all the members who have produced their credentials; which was read and committed to a Committee of the whole House.

A message was received from the Senate informing the House that the Senate have passed an act entitled "An act for the relief of persons imprisoned for debt," and "An act for reviving and continuing suits and proceedings in the Circuit Court for the district of Pennsylvania," to which they request the concurrence of the House.

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Militia Law.

H. of R.

The former was read a first and second time and committed to a Committee of the Whole for to-morrow. The latter was read a third time and passed.

Mr. DANA, from the Committee of Elections, to whom was referred the credentials of William Henry Harrison, Esq., a delegate from the Northwest Territory, made a report, which concluded with the following resolution:

Resolved, That William Henry Harrison a delegate from the Territory of the United States Northwest of the river Ohio, be admitted to have a seat in this House with the right of debating but not of voting:—

which was committed to a Committee of the whole House this day.

The report was subsequently taken up and agreed to by the House.

Mr. GRISWOLD, from the Committee of Ways and Means, reported "A bill providing for the enumeration of the inhabitants of the United States;" which was read a first and second time, and committed to a Committee of the Whole on Thursday next.

Mr. G., from the same committee, also reported "a bill supplementary to the act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States," which was read a first and second time, and committed to a Committee of the Whole for to-morrow.

On motion, it was *Ordered*, That Mr. WADSWORTH, and Mr. GRAY, be appointed a Committee for Enrolled Bills, on the part of this House, jointly, with such committee as shall be appointed for that purpose on the part of the Senate.

THE MILITIA LAW.

Mr. LEE moved the following resolution, which was adopted by the House, viz:

Resolved, That a committee be appointed to report whether any, and, if any, what alterations are necessary to be made in the militia law of the United States."

In prefacing his motion, Mr. L. said he wished to call the attention of the House to a subject highly interesting to the citizens of the United States, and deserving the serious attention of its Legislature. He thought the system heretofore pursued was radically wrong, and viewed every measure which was not predicated on the wishes of the people, as answering but little effect. He wished to see that system of defence which, growing out of nature, shall enable all men to serve without injuring their families. The youth of our country should alone be called upon, who would be found sufficiently adequate for its defence, and seventeen and twenty-six were the ages of which the defenders of our country should consist. When father and son are arrayed in the same ranks, a wavering must take place, and present an opportunity for an impression from the enemy. He concluded a concise and elegant speech, by moving the above resolution.

Ordered, That Mr. HENRY LEE, Mr. SMITH, Mr. MORRIS, Mr. SHEPARD, Mr. DICKSON, Mr. TALIAFERRO, and Mr. SUMTER, be appointed a committee, pursuant to the said resolution.

TUESDAY, December 17.

Mr. S. SMITH, from the Committee of Commerce and Manufactures, reported a bill providing for salvage in case of recapture, which was read a first and second time and committed to a Committee of the whole House on Thursday.

The House went into Committee of the Whole on the bill supplementary to the act entitled "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States;" and the bill having been read, was agreed to without amendment, and ordered to be engrossed for a third reading to-morrow.

IMPRISONMENT FOR DEBT.

Mr. OTIS moved, that the Committee of the Whole to whom were referred the bill from the Senate for the relief of persons imprisoned for debt, be discharged; and that the bill be committed to the select committee to whom were referred a similar subject. Agreed to.

Mr. O. said, he made this motion, in consequence of some recent information which he had received on the subject from the Judge of the District Court of Pennsylvania. The bill from the Senate was merely a copy of the old law, in which there were several imperfections. He had not yet had time to mature his reflections on the alterations necessary to be made in the bill, but expected if it were committed, (as he proposed,) to receive such additional information from the District Judge, on this subject, as would render the law, if passed, more beneficial, and competent to the purposes for which it was intended.

WEDNESDAY, December 18.

The bill entitled "An act supplementary to the act entitled "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States," was read a third time and passed.

Mr. SPEAKER said, he had received a letter, addressed to him, in the French language, (of which he had procured a translation,) from six French officers, confined in jail, at Burlington, in the State of New Jersey, which was read and referred to the Secretary of the Navy.

The letter stated that they had been in imprisonment six months; that their usage was contrary to that of enemy officers in the power of the French Republic, who allowed them to depart either for their own or a neutral country; and that American officers were not detained in France as prisoners of war. Wherefore, they pray to be allowed to depart for their own or for a neutral country.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, accompanied with a report and estimates of the sums necessary to be appropriated for the service of the year one thousand eight hundred; also, a statement of the receipts and expenditures at the Treasury of the United States, for one year preceding the first day of October, one thousand seven hundred and nine-

H. OF R.

Death of General Washington.

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ty-nine; which were read, and ordered to be referred to the Committee of Ways and Means.

DEATH OF GENERAL WASHINGTON.

Mr. MARSHALL, in a voice that bespoke the anguish of his mind, and a countenance expressive of the deepest regret, rose, and delivered himself as follows:

Mr. Speaker: Information has just been received, that our illustrious fellow-citizen, the Commander-in-Chief of the American Army, and the late President of the United States, is no more!

Though this distressing intelligence is not certain, there is too much reason to believe its truth. After receiving information of this national calamity, so heavy and so afflicting, the House of Representatives can be but ill fitted for public business. I move you, therefore, they adjourn.

The motion was unanimously agreed to; and then the House adjourned till to-morrow morning, 11 o'clock.

THURSDAY, December 19.

SAMUEL GOODE, from Virginia, appeared, produced his credentials, was qualified, and took his seat in the House.

DEATH OF GENERAL WASHINGTON.

Mr. MARSHALL, addressed the Chair as follows:

Mr. Speaker: The melancholy event which was yesterday announced with doubt, has been rendered but too certain. Our WASHINGTON is no more! The Hero, the Sage, and the Patriot of America—the man on whom in times of danger every eye was turned and all hopes were placed—lives now only in his own great actions, and in the hearts of an affectionate and afflicted people.

If, sir, it had even not been usual openly to testify respect for the memory of those whom Heaven had selected as its instruments for dispensing good to men, yet such has been the uncommon worth, and such the extraordinary incidents which have marked the life of him whose loss we all deplore, that the whole American nation, impelled by the same feelings, would call with one voice for a public manifestation of that sorrow which is so deep and so universal.

More than any other individual, and as much as to one individual was possible, has he contributed to found this our wide-spreading empire, and to give to the Western world its independence and its freedom.

Having effected the great object for which he was placed at the head of our armies, we have seen him converting the sword into the ploughshare, and voluntarily sinking the soldier in the citizen.

When the debility of our federal system had become manifest, and the bonds which connected the parts of this vast continent were dissolving, we have seen him the Chief of those patriots who formed for us a Constitution, which, by preserving the Union, will, I trust, substantiate and perpetuate those blessings our Revolution had promised to bestow.

In obedience to the general voice of his country, calling on him to preside over a great people, we have seen him once more quit the retirement he loved, and in a season more stormy and tempestuous than war itself, with calm and wise determination, pursue the true interests of the nation, and contribute, more than any other could contribute, to the establishment of that system of policy which will, I trust, yet preserve our peace, our honor, and our independence.

Having been twice unanimously chosen the Chief Magistrate of a free people, we see him at a time when his re-election, with the universal suffrage, could not have been doubted, affording to the world a rare instance of moderation, by withdrawing from his high station to the peaceful walks of private life.

However the public confidence may change, and the public affections fluctuate with respect to others, yet with respect to him they have in war and in peace, in public and in private life, been as steady as his own firm mind, and as constant as his own exalted virtues.

Let us then, Mr. Speaker, pay the last tribute of respect and affection to our departed friend—let the Grand Council of the nation display those sentiments which the nation feels.

For this purpose I hold in my hand some resolutions, which I will take the liberty to offer to the House.

Mr. MARSHALL having handed them in at the table, they were read, and unanimously agreed to by the House, in the words following, to wit:

The House of Representatives of the United States, having received intelligence of the death of their highly valued fellow-citizen, GEORGE WASHINGTON, General of the Armies of the United States, and sharing the universal grief this distressing event must produce, *unanimously resolve:*

1. That this House will wait on the President of the United States, in condolence of this national calamity.
2. That the Speaker's chair be shrouded with black, and that the members and officers of the House wear mourning, during the session.
3. That a joint committee of both Houses be appointed to report measures suitable to the occasion, and expressive of the profound sorrow with which Congress is penetrated on the loss of a citizen, first in war, first in peace, and first in the hearts of his countrymen.
4. That when this House adjourns, it will adjourn until Monday next.

Ordered, That Mr. MARSHALL and Mr. SMITH be appointed a committee to wait on the President of the United States, to know when and where he will receive this House for the purpose expressed in the first resolution.

Ordered, That Mr. MARSHALL, Mr. CRAIK, Mr. HENRY LEE, Mr. EGGLESTON, Mr. SMITH, Mr. STONE, Mr. RUTLEDGE, Mr. ABIEL FOSTER, Mr. MUHLBERG, Mr. VAN CORTLANDT, Mr. DWIGHT FOSTER, Mr. FRANKLIN DAVENPORT, Mr. CLAIRBORNE, Mr. MORRIS, Mr. JOHN BROWN, and Mr. TALIAFERRO, be a committee, jointly with such committee as may be appointed on the part of the Senate, for the purpose expressed in the third resolution.

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Death of General Washington.

H. OF R.

Ordered, That the Clerk of this House do acquaint the Senate therewith.

A Message was received from the PRESIDENT OF THE UNITED STATES, which, together with the letter accompanying the same, was read and referred to the committee last appointed, and is as follows:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives :

The letter herewith transmitted, will inform you that it has pleased Divine Providence to remove from this life our excellent fellow-citizen GEORGE WASHINGTON, by the purity of his character, and a long series of services to his country, rendered illustrious through the world. It remains for an affectionate and grateful People, in whose hearts he can never die, to pay suitable honor to his memory.

JOHN ADAMS.

UNITED STATES, Dec. 19, 1799.

"MOUNT VERNON, Dec. 15, 1799.

"SIR: It is with inexpressible grief that I have to announce to you the death of the great and good General WASHINGTON. He died last evening, between ten and eleven o'clock, after a short illness of about twenty hours. His disorder was an inflammatory sore throat, which proceeded from a cold, of which he made but little complaint on Friday. On Saturday morning, about three o'clock, he became ill. Doctor Craik attended him in the morning, and Doctor Dick, of Alexandria, and Doctor Brown, of Port Tobacco, were soon after called in. Every medical assistance was offered, but without the desired effect. His last scene corresponded with the whole tenor of his life; not a groan, nor a complaint, escaped him in extreme distress. With perfect resignation, and in full possession of his reason, he closed his well spent life.*

"I have the honor to be, sir, your most obedient and very humble servant.

"TOBIAS LEAR.

"The PRESIDENT OF THE UNITED STATES."

Mr. MARSHALL, from the committee appointed to wait on the President of the United States, to know when and where it will be convenient for him to receive this House in condolence of the na-

* FROM AN ALEXANDRIA PAPER OF DECEMBER 21, 1799.

Messrs. J. & J. D. Westcott:

Presuming that some account of the late illness and death of General WASHINGTON, will be generally interesting, and particularly so to the professors and practitioners of medicine throughout America, we request you to publish the following statement.

JAMES CRAIK,

ELISHA C. DICK.

Some time in the night of Friday, the 13th inst., having been exposed to a rain on the preceding day, General WASHINGTON was attacked with an inflammatory affection of the upper part of the windpipe, called, in technical language, *cynanche trachealis*. The disease commenced with a violent ague, accompanied with some pain in the upper and fore part of the throat, a sense of stricture in the same part, a cough and a difficult rather than a painful deglutition, which were soon succeeded by fever and a quick and laborious respiration. The necessity of blood-letting suggesting itself to the General, he procured a bleeder in the neighborhood, who took from his arm, in the night, twelve or fourteen ounces of blood. He would not by any means be prevailed upon by the family to send for the attending physician till the following morning, who arrived at Mount Vernon at about eleven o'clock on Saturday. Discovering the case to be highly alarming, and foreseeing the fatal tendency of the disease, two consulting physicians were immediately sent for, who arrived, one at half after three, the other at four o'clock in the afternoon. In the interim were employed two copious bleedings, a blister was applied to the part affected, two moderate doses of calomel were given, and an injection was administered, which operated on the lower intestines—but all without any perceptible advantage; the respiration becoming still more difficult and distressing.

Upon the arrival of the first of the consulting physicians, it was agreed, as there were yet no signs of accumulation in the bronchial vessels of the lungs, to try the result of another bleeding, when

tional calamity, reported that the committee had according to order, performed that service, and that the President signified to them it would be convenient for him to receive this House at one o'clock this afternoon, at his own house.

A message from the Senate informed the House that the Senate have agreed to the resolution passed by the House of Representatives for the appointment of a joint committee of both Houses to report measures suitable to the occasion, and expressive of the profound sorrow with which Congress is penetrated on the loss of a citizen, first in war, first in peace, and first in the hearts of his countrymen; and have appointed Mr. DAYTON, Mr. BINGHAM, Mr. DEXTER, Mr. GUNN, Mr. LAURANCE, and Mr. TRACY, a committee on their part.

The SPEAKER, attended by the House, then withdrew to the house of the President of the United States, when Mr. SPEAKER addressed the President as follows:

SIR: The House of Representatives, penetrated with a sense of the irreparable loss sustained by the nation in the death of that great and good man, the illustrious and beloved WASHINGTON, wait on you, sir, to express their condolence on this melancholy and distressing event.

To which the PRESIDENT replied as follows:

Gentlemen of the House of Representatives :

I receive, with great respect and affection, the condolence of the House of Representatives, on the melancholy and affecting event, in the death of the most illustrious and beloved personage which this country ever produced. I sympathize with you, with the nation, and with good men through the world, in this irreparable loss sustained by us all.

JOHN ADAMS.

UNITED STATES, Dec. 19, 1799.

MONDAY, December 23

THOMAS T. DAVIS, from Kentucky; ROBERT WILLIAMS, from North Carolina; and JOHN DEN-

about thirty-two ounces of blood were drawn, without the smallest apparent alleviation of the disease. Vapors of vinegar and water were frequently inhaled, ten grains of calomel were given, succeeded by repeated doses of emetic tartar, amounting in all to five or six grains, with no other effect than a copious discharge from the bowels. The powers of life seemed now manifestly yielding to the force of the disorder. Blisters were applied to the extremities, together with a cataplasm of bran and vinegar to the throat. Speaking, which was painful from the beginning, now became almost impracticable; respiration grew more and more contracted and imperfect, till half after eleven o'clock on Saturday night; when, retaining the full possession of his intellect, he expired, without a struggle.

He was fully impressed at the beginning of his complaint, as well as through every succeeding stage of it, that its conclusion would be mortal; submitting to the several exertions made for his recovery rather as a duty, than from any expectation of their efficacy. He considered the operations of death upon his system as coeval with the disease; and several hours before his decease, after repeated efforts to be understood, succeeded in expressing a desire that he might be permitted to die without interruption.

During the short period of his illness, he economized his time in the arrangement of such few concerns as required his attention, with the utmost serenity, and anticipated his approaching dissolution with every demonstration of that equanimity, for which his whole life has been so uniformly and singularly conspicuous.

JAMES CRAIK

Attending Physician.

ELISHA C. DICK.

Consulting Physician.

The signature of Doctor Gustavus Brown, of Port Tobacco, who attended as consulting physician, on account of the remoteness of his residence from the place, has not been procured to the foregoing statement.

H. of R.

Respect to the Memory of Washington.

DECEMBER, 1799.

NIS, from Maryland; appeared, produced their credentials, were qualified, and took their seats in the House.

Mr. OTIS from the select committee to whom was referred the bill from the Senate for the relief of persons imprisoned for debt, reported the bill with sundry amendments, which were committed to a Committee of the whole House for Friday.

Mr. SEWALL presented a letter of Winthrop Sargent, Esq., Governor of the Mississippi Territory, to the Secretary of State, enclosing two memorials of the inhabitants of the Natchez—the first praying for Legislative aid to assist them in the establishment of a seminary, and places of public worship; the second for a confirmation of their titles to lands occupied by them previous to the cession of the Territory to the United States by Spain, and that vacant lands may be granted, free of expense, to persons on their becoming actual settlers. Ordered to lie on the table.

Mr. RUTLEDGE presented a petition of Nicholas I. Roosevelt, on behalf of himself and associates, praying for an act of incorporation for the purpose of continuing and facilitating the works of Schuyler's Copper Mine, in New Jersey; which was read and referred to the Committee of Commerce and Manufactures.

A petition of Thomas Burling and others, inhabitants of the Mississippi Territory, in behalf of themselves and the people of the said Territory, was presented to the House and read, praying the confirmation of all grants of lands legally and justly obtained from the Spanish Government, prior to the ratification of the late treaty between the United States and His Catholic Majesty.

Also, a petition of John Henderson, and others, inhabitants of the Natchez, in the said Territory, praying the aid and patronage of Congress in the establishment of a regular ministry of the Gospel among them, and of schools for the education of their youth.

Ordered, That the said petitions do lie on the table.

Mr. DAVIS presented a memorial of a number of inhabitants of the United States, residing near the Ohio, who had purchased a quantity of land from John Cleves Symmes, the title to which had been abrogated by the act of Congress of the 30th September, 1794, praying for a repeal of that act; or permission to retain the lands which they have improved, at a fair valuation; or that a hearing may be given them in the courts of law.

Ordered, That it lie on the table.

Mr. GREGG moved, that the Committee of the Whole to whom was referred the petition of Robert Sturgeon, be discharged from the further consideration thereof; and that it be referred to the select committee to whom was committed the bill from the Senate for relief of persons imprisoned for debt. Agreed to.

RESPECT TO THE MEMORY OF GENERAL WASHINGTON.

Mr. MARSHALL, from the joint committee appointed to report what testimony of respect ought

to be paid to the memory of the man first in war, first in peace, and first in the hearts of his countrymen, made a report in part, which he delivered in at the table, where it was twice read, and unanimously agreed to, in the words following, to wit:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That a marble monument be erected by the United States, in the Capitol, in the city of Washington, and that the family of General WASHINGTON be requested to permit his body to be deposited under it; and that the monument be so designed as to commemorate the great events of his military and political life.

And be it further resolved, That there be a funeral procession from Congress Hall to the German Lutheran Church, in honor of the memory of General GEORGE WASHINGTON, on Thursday the 26th instant, and that an oration be prepared at the request of Congress, to be delivered before both Houses on that day, and that the President of the Senate and Speaker of the House of Representatives be desired to request one of the members of Congress to prepare and deliver the same.

And be it further resolved, That it be recommended to the people of the United States to wear crape on the left arm, as mourning, for thirty days.

And be it further resolved, That the President of the United States be requested to direct a copy of these resolutions to be transmitted to Mrs. WASHINGTON, assuring her of the profound respect Congress will ever bear to her person and character; of their condolence on the late afflicting dispensation of Providence; and entreating her assent to the interment of the remains of General GEORGE WASHINGTON, in the manner expressed in the first resolution.

*And be it further resolved, That the President of the United States be requested to issue a proclamation, notifying to the people throughout the United States, the recommendation contained in the third resolution.**

Ordered, That the Clerk of this House do carry the said resolutions to the Senate, and desire their concurrence.

*The following orders were issued by the War and Navy Departments:

The PRESIDENT, with deep regret, announces to the Army the death of its beloved Chief, General GEORGE WASHINGTON. Sharing in the grief which every heart must feel for so heavy and afflicting a public loss, and desirous to express his high sense of the vast debt of gratitude which is due to the virtues, talents, and ever memorable services of the illustrious deceased, he directs that funeral honors be paid to him at all the military stations, and that the officers of the army and of the several corps of volunteers wear crape on the left arm, by way of mourning, for six months. Major General Hamilton will give the necessary orders for carrying into effect the foregoing directions.

Given at the War Office of the United States, in Philadelphia, this nineteenth day of December, A. D. 1799, and in the twenty-fourth year of the independence of the said States.

By command of the President: JAMES M'HENRY,
Secretary of War.

NAVY DEPARTMENT, 20th December, 1799.

The PRESIDENT, with deep affliction, announces to the Navy, and to the marines, the death of our beloved fellow-citizen, GEORGE WASHINGTON, Commander of our Armies, and late President of the United States; but rendered more illustrious by his eminent virtues, and a long series of the most important services, than by the honors which his grateful country delighted to confer upon him.

Desirous that the Navy and marines should express, in common with every other description of American citizens, the high sense which all feel of the loss our country has sustained in the death of this good and great man, the PRESIDENT directs that the vessels of the Navy, in our own and foreign ports, be put in mourning for one week, by wearing their colors half-mast high; and that the officers of the Navy and of the marines wear crape on the left arm, below the elbow, for six months. BEN. S FODDERT.

DECEMBER, 1799.

Respect to the Memory of Washington.

H. OF R.

Previous to the question being put upon the first resolution, Mr. H. LEE, of Virginia, rose, and addressed the Chair as follows:

Mr. Speaker: In executing the task assigned to the committee, it will be observed much remains to be done; so far as they have gone, and as far as they may go, one hope is cherished, that whatever is done, will be unanimously adopted.

This will be most pleasing to our constituents, and most honorable to the character we all honor. Out of a wish to execute in the best manner the direction of the House, a difference of opinion will naturally prevail. This difference of opinion, however commendable, upon ascertaining the mode of public mourning, ought to be suppressed when we come to act; for unanimity then is, as I before stated, most to be wished for, whether the feelings of our constituents, or our intentions, on the celebrity which all desire to give to the high occasion, govern.

A message was received from the Senate, announcing their concurrence in the report of the joint committee made this day; and then the House adjourned till to-morrow morning.

TUESDAY, December 24.

Ordered, That the petitions of John Henderson and others, and of Thomas Burling and others, inhabitants of the Mississippi Territory, presented yesterday, be referred to Messrs. SEWALL, CHAUNCEY GOODRICH, WALN, EVANS and HILL; that they do examine the matter thereof, and report the same, with their opinion thereupon, to the House.

Mr. GRISWOLD, from the Committee of Revisal and Unfinished Business, to whom it was referred to examine and report what laws have expired, or are near expiring, and require to be revived or further continued, made a report, in part; which was read, and ordered to lie on the table.

Mr. GORDON moved the following resolution, which was adopted by the House:

Resolved, That a committee be appointed to inquire whether any, and, if any, what amendments are necessary to the act, entitled "An act to lay and collect a direct tax within the United States;" and that they be authorized to report by bill, or otherwise.

On motion of Mr. GRISWOLD, the above resolution was committed to the Committee of Ways and Means.

NORTHWESTERN LAND SALES.

Mr. HARRISON said, he conceived the system which had been adopted for the sale of the lands of the United States northwest of the river Ohio was capable of considerable improvement; and that alterations might be made in the existing laws on that subject, which would be of considerable benefit to persons becoming actual settlers of that country. He therefore moved the following resolution, viz:

Resolved, That a committee be appointed to inquire whether any, and, if any, what alterations are necessary in the laws authorizing the sale of the lands of the Uni-

ted States northwest of the Ohio, and report to the House their opinion thereon.

The resolution was agreed to, and Messrs HARRISON, BRACE, GORDON, DAVIS, GORE, LYMAN, and GALLATIN, were appointed the committee.

Mr. GALLATIN presented a petition of 176 actual settlers, of the county of Jefferson, in the Northwestern Territory, praying that a law may be passed authorizing the sale of the lands of the United States in such manner as they may become purchasers, and thereby prevent land speculators from becoming the proprietors of the ground which they had improved, and to which they ought to have the pre-emption, which they could not have under the existing laws. Referred to the committee to whom were committed Mr. HARRISON's resolution.

PETITION OF GEORGE FARRAGUT.

Mr. CLAIBORNE moved, that the petition of George Farragut, presented at the last session, with the report of the Secretary of War made thereon, be referred to a select committee.

This motion was objected to, on the ground that the petition contained a claim upon the United States; and that as a standing committee had been appointed by the rules of the House, for considering and reporting upon all claims of the nature contained in this petition, it would be improper to deviate in one instance from the rule; as it must tend to the appointment of select committees whenever members who present similar petitions might wish the report upon them to be expedited. Mr. MACON therefore moved that it be referred to the Committee of Claims; which was agreed to.

RESPECT TO THE MEMORY OF GENERAL WASHINGTON.

The SPEAKER informed the House that, conformably to the resolution of Congress, the President of the Senate and the Speaker of the House of Representatives had requested Major General HENRY LEE, one of the Representatives from the State of Virginia, to prepare and deliver a funeral oration before both Houses, on Thursday, the twenty-sixth instant, in honor of the memory of GEORGE WASHINGTON, late General of the Armies of the United States; and that Mr. LEE had been pleased to accept of the appointment.

And, on motion, the House adjourned.

THURSDAY, December 26.

This being the day appointed by the resolution of Congress for the funeral procession in honor of the memory of GEORGE WASHINGTON, late General of the Armies of the United States, the House proceeded to the German Lutheran Church, where they attended the funeral oration, prepared and delivered on the occasion by Major General LEE, one of the members of this House for the State of Virginia. [See *Appendix*.]

The House, having returned, adjourned until to-morrow morning.

H. OF R.

Census of the United States.

DECEMBER, 1799.

FRIDAY, December 27.

JOHN FOWLER, from Kentucky, appeared, produced his credentials, was qualified, and took his seat in the House.

A petition of Samuel Selby, 3d, late Collector of the Revenue in the fourth division of the second survey of the District of Maryland, now confined in the prison of Allegany county, in the said State, was presented to the House and read, praying to be relieved from the confinement to which he is subjected, in consequence of his having converted to his own use moneys which he received as Collector as aforesaid, and is unable to refund.

Also a petition of Lawrence Erb, late Collector of the Revenue of the United States within the county of Northampton, in the State of Pennsylvania, to the same effect.

Ordered, That the said petitions be referred to the Committee of the Whole House to whom was committed the bill sent from the Senate, entitled "An act for relief of persons imprisoned for debt."

A petition of John Smith, and others, inhabitants of the Northwestern Territory, was presented to the House and read, praying a repeal or amendment of the laws authorizing the sale of the lands of the United States northwest of the Ohio; and that they may be allowed to purchase lands of the United States, on terms and in quantities suitable to their circumstances.

Also a petition of James Grubb, and others, inhabitants of the said Territory, to the same effect.

Also, a petition of Andrew Small, and others, inhabitants of the Territory aforesaid, and actual settlers upon lands purchased of John C. Symmes, praying for a revision and amendment of the acts authorizing the sale of the lands of the United States in the Territory Northwest of the river Ohio, and that they may be allowed to retain the possession of the said lands upon terms more favorable and better suited to their situation than those contemplated by the said acts.

The SPEAKER laid before the House a report of the Secretary of the Navy on the petition of sundry French officers confined in the prison of Burlington, in the State of New Jersey, referred to him on the eighteenth instant; which was read, and ordered to lie on the table.

The House, resolved itself into a Committee of the Whole upon the bill, sent from the Senate, entitled "An act for the relief of persons imprisoned for debt;" and after some time spent therein, the Committee rose and reported progress; and on the question that the Committee of the whole House have leave to sit again on the said bill, it passed in the negative.

Ordered, That the Committee of the whole House be discharged therefrom, and that the said bill be recommitted to the committee appointed, on the fifth instant, to inquire whether it be expedient to make any, and, if any, what provision for the relief of persons imprisoned for debt.

RESPECT TO THE MEMORY OF GENERAL WASHINGTON.

On a motion made and seconded that the House do come to the following resolution, to wit:

"The House of Representatives of the United States, highly gratified with the manner in which Mr. LEE has performed the service assigned to him under the resolution desiring the President of the Senate and Speaker of the House of Representatives to request one of the members of Congress to prepare and deliver a funeral oration on the death of GEORGE WASHINGTON; and desirous of communicating to their fellow-citizens, through the medium of the press, those sentiments of respect for the character, of gratitude for the services, and of grief for the death of that illustrious personage, which, felt by all, have, on this melancholy occasion, been so well expressed:

"*Resolved*, That the SPEAKER present the thanks of this House to Mr. LEE, for the oration delivered by him to both Houses of Congress on Thursday, the twenty-sixth instant; and request that he will permit a copy thereof to be taken for publication."

The question was taken that the House do agree to the same, and unanimously resolved in the affirmative.

MONDAY, December 30.

Mr. OTIS, from the committee to whom was re-committed the bill from the Senate for the relief of persons imprisoned for debt, reported the same, with amendments; which was made the order of the day for to-morrow.

ENUMERATION OF INHABITANTS.

Mr. OTIS called for the order of the day on the bill to provide for the enumeration of the inhabitants of the United States. The House accordingly went into a Committee of the Whole on said bill; Mr. PARKER in the Chair. The first section of the bill begins thus:

"*Be it enacted &c.*, That the Marshals of the several districts of the United States, and the Secretaries of the Territory of the United States, Northwest of the river Ohio, and of the Mississippi Territory, respectively, shall be and are hereby authorized and required, *under the direction of the Secretary of State, and according to such instructions as he shall give pursuant to this act*, to cause the number of the inhabitants within their respective districts and territories to be taken," &c.

The first section having been read, Mr. NICHOLAS moved to strike out the words printed in italic. Mr. N. said this provision was not to be found in the former act on this subject; and he saw no reason why a man who was bound by a solemn oath to act in conformity to this act, should be subject to directions which the scrupulousness of his conscience might lead him to refuse to abide by.

Mr. OTIS thought it necessary the power of giving directions pursuant to this act, should be lodged somewhere—he was indifferent whether with the Secretary of State or any other proper officer; in order that if any difficulty or embarrassment arose in the execution of the law, the Marshals, who were to execute it, would know where to apply. It was also necessary the returns should be uniform, which could not be expected to be the case were the words struck out. The question was put, when there appeared in the affirmative 36, negative 41.

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The bill having been gone through, and the blanks therein filled up, the Committee rose, and reported the same. When

Mr. CHRISTIE renewed the motion made in the Committee by Mr. NICHOLAS. He said he was so impressed with the necessity of erasing the words, as to impel him to wish a reconsideration of the subject; for it was not his wish or intention to vote for a law that should give a controlling power to any particular officer of the Government over the law, which he conceived the Secretary of State would completely enjoy, were the words to remain in the bill. He would be sorry to harbor the thought that that officer would throw any impediment in the way of the law, but he thought it improper to entrust him with a power to do it.

Mr. GRISWOLD, said, it certainly was a mere matter of form and custom, and necessarily the business of an officer of State, for questions would unavoidably arise in which instructions must come, as to the execution of the law, from the Secretary of State or the President. From the first section, it would appear that certain interrogatories were necessary to be made to the heads of families, as, Who are the persons residing in the house? What their ages, names? &c. These interrogatories must be provided by some department of the Government, or the Marshals and their assistants would not know how to proceed on the business allotted to them. In order to prevent confusion and to establish a uniformity throughout the districts, it was very necessary to put this power in the Secretary of State.

Mr. NICHOLAS said his principal objection to the words before was, because they established an operation which he could not understand; but, from the explanation of the gentleman last up, he feared the operation was worse than he had suspected. The gentleman said that a particular section of the law was not sufficient of itself, but wanted the explanation of the Secretary of State to ascertain its operation, and his direction, by prescribing the interrogatories to come at facts requisite; and he supposed, of course, that the Secretary of State may have it in his power to determine what facts shall make a residence necessary for insertion in the schedule. He would ask the House, whether they were not giving, out of their own hands, a power which none but the Legislature ought to possess? Was it the way to recommend the insertion of the words, by saying that it was necessary to lodge the discretion somewhere? Surely, this proved that the law was not right, and therefore was sufficient to excite a doubt as to the propriety of its operation. Mr. N. thought, if there were no other reasons to be urged against inserting the words, it would be enough that they had not been introduced into the former law, and no injuries had occurred for the want of them. It was sufficient time to amend, or insert new provisions in a law, when its former operation was found inadequate to its object. The former law never had such a provision: the present law was in every other respect made as precise as was possible; the schedule of return was accurately and distinctly marked as to the descriptions of persons; and surely none

were so able to say what constituted actual residence as the Marshal, but, if he should be thought incompetent, the law might be made to go further, and mark precisely the mode of its own operations.

Mr. OTIS was surprised at the perseverance of the gentleman in his opposition to the words. It appears to be taken for granted that the Secretary of State has power to vary the law, whereas it was merely a declaratory power that was given him, and to say how it ought to be executed. It was not a new power given to the departments of the Government; the same was left with the Secretary of the Treasury, respecting another law, and those powers were necessarily left, because it was impossible for the Legislature to foresee all the occurrences which would arise, and which would be various in various parts. It is the business of the departments of Government to see that the laws are executed, which power only these words delegate.

Besides, whatever instructions the Secretary of State would have power to give must be "pursuant to this act." If the law itself is sufficiently precise, as the gentleman supposes, then no instructions will be necessary, but this will not be the case everywhere. This was the idea of the committee who reported the bill, and in order to meet all difficulties that might occur, they introduced these words and the eighth section, which reads thus:

"The Secretary of State shall be, and hereby is, authorized and required to adopt and communicate to the Marshals of the several States, and to the Secretaries aforesaid, proper regulations and instructions for carrying this act into effect, and also the forms of schedule to be returned and interrogatories to be administered by the several persons who shall be employed therein."

Mr. OTIS said it was thought these regulations would much facilitate the labor of the officers employed, and enable them to attain the facts with considerable less difficulty.

Mr. GALLATIN said the object in introducing this new provision appeared to him to be either to give the Secretary of State power and authority to define some part of the law which was not precise enough to be understood, or it was merely that he should direct some certain provision of it to be carried into effect.

If, as was insinuated by a gentleman, (Mr. GRISWOLD,) it was to give a discretionary power to that officer to define any law or part of a law which was not clear enough, he must say it was not the province of any officer in the Government whatever, but such definition ought to be included in the law itself, or it would be imperfect. He supposed, as was observed, that this definition might be seen requisite in the fifth section as to what was meant by "inhabitants," so that all might be included, and none twice enumerated whom accident might throw into different parts of the United States. It was necessary to have a better definition than was provided by the Constitution; he took it to be the duty of the House to do it; they must declare it, and not leave it to the Secretary of State or to the Marshals, who are only to carry the law into effect. If it is taken out of the hands

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of the Marshals, and placed with the Secretary of State, then the remedy is not adequate to the evil, because he cannot be so competent to it as the Marshals.

If, on the other hand, the meaning of the word "inhabitant" is precise enough in itself, and no explanation is necessary, and the object is merely a regulation as to the questions it may be necessary to ask, then it is better to leave it with the Marshal, for he can best know whether all and no more are enumerated, he being an inhabitant of the district and more acquainted with it. The Marshal is sworn to "enumerate all the inhabitants in his district, to the best of his abilities," and surely there can be no necessity to shackle him with directions which must issue, not from the law he is executing, but from the office of the Secretary of State. The eighth section, Mr. GALLATIN observed, went further, and in a manner gave power to the Secretary of State to alter the first section. The first section pointed out the necessary schedule, but the eighth section gave some power concerning that schedule to the Secretary, to "adopt and communicate the forms of schedule to be returned," &c., which, being inconsistent with any former mode, he conceived was highly improper.

The object of taking the enumeration was to conform the representation in Congress to the number of inhabitants; the people wished it done, and Congress ought to do it fairly; and in forming a bill to effect it, all suspicion ought to be removed from the minds of the public, that it would be done contrary: but if the power of regulating the enumeration was placed in the Secretary of State, who might be supposed to possess some local adherence and favor towards his own State—if it was recollected that there was no such provision before, and yet the law was well executed—was not the measure calculated to breed suspicion? The forms of return and directions being ample in a general view, he hoped no new provision would be introduced.

Mr. GORDON said the objections made to the controlling power of the Secretary of State were of a nature not to be answered, because those objections were merely of suspicion; but to those who wished to look at the reasonableness of the words, and who harbored no suspicion, a few arguments might be offered which he thought must carry conviction.

The propriety of having some person to superintend had been well argued, but more reasons might be offered for its necessity. It was a possible event (and against such, provisions ought to be made) that a Marshal might die, resign, or be removed from office, before the completion of the act, and yet the enumeration in that district might be begun; in such case, what provision was there to complete those returns, or to examine into deficiencies? By placing it in the hands of the Secretary of State there will be no danger of this difficulty. That this power should be vested in some officer who should have a general superintendence to remove all objections and impediments he thought self-evident, and with none, in

his opinion, could it be so properly placed as the Secretary of State.

Mr. LEE said, he had some doubts as to the propriety of these words, and he would vote for their expulsion; and he must confess that the farther discussion of the subject, had not removed those doubts, but rather strengthened them. If the sole object contemplated by the gentlemen who argued for the necessity of the words was merely that there should become head, for conducting, in point of form and uniformity, the execution of the law, then these words, or some other more definite, should be preserved; but as the bill now stood, while it held up that object, it carried with it material and substantial objections. What, he asked, would be the result under the law, if a Marshal, attending to the just warning of his conscience, should say to the Secretary of State "Your instructions, if executed by me, in my judgment, would violate my oath; and my conscientious adherence to the directions of the law must be a prominent rule for my conduct?" Thus during the dispute between the Secretary of State and the conscientious officer, on account of the elapsing of the Constitutional period for enumeration, a whole State would lose its representation to the National Legislature! He would not suppose that its occurrence would happen from political motives, but purity of conscience may prevent the execution of the office, and as that could possibly take place it must appear a very material inconvenience, and the benefits of a wise and necessary law would be not only lost, but the result be evil.

The law would therefore be incomplete as it respected the instructions of the Secretary of State, and if the sole object was uniformity of system, a discretion would be given which may be used very detrimentally to a part of the community, though perhaps not willingly. He wished that some gentleman would remove those doubts by showing, either that there was no foundation for them, or else by so qualifying the law, while the discretion was given, as to prove that the sole object was the professed one, to wit, that all the Marshals through this extensive Republic should be governed by a fixed rule with respect to form; until which he could not vote for the clause.

Mr. EGGLESTON suggested the propriety of striking out the words, and again committing the bill to the whole House for an amendment, suitable to the opinions of the member last up.

Mr. GRISWOLD said the same words were passed through the House last session in the enumeration bill. The Secretary of State was as much restricted as the Marshal himself, for he could not give instructions otherwise than "pursuant to this act." Why there should be objections to the Secretary's using this power, and no objection be made to the exercise of it by the Marshals, he could not imagine. He did not conceive the act was indefinite, as had been said; the act was sufficiently certain and precise, but the mode of execution was so uncertain that a discretionary power must be placed somewhere. If it was left with the Marshals, there was danger of some persons being twice returned; suppose, for instance, an inhabi-

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tant of Delaware resided for a time in Pennsylvania, his return might have been made in Delaware, and again in Pennsylvania, because it was in the hands of two different Marshals, whereas if left with the Secretary of State, this evil would be avoided.

Mr. LEE could not but suspect there was more than "mere matter of form" intended by the introduction of this new principle in the broad words in which it was comprised, "under the direction of the Secretary of State"—broader words could not be found in the English language. The Secretary of State being placed paramount to the Marshal, the Marshal acting conscientiously would disobey the Secretary of State rather than his conscience; what would then be his mode of acting under this imperious mandate? Mr. L. said he looked with a jealous eye upon every law coming from the Legislature, lest it should be improperly used by Executive authority. This was a Constitutional duty. The wisdom and genius of our Government, as well as the feelings of our people, alike made it necessary to keep the Executive and the Legislative power separate, for on this our safety depended; but here was the Executive power brought in to aid the Legislative. We doubt, said he; are we not to realize these doubts by supposing they may take place in this extensive community? Thus situated, the people will charge us with what we all disclaim—that we mean to give a power to the Executive authority over our laws. If we desire to escape this suspicion, we should make our laws in themselves explicit, and not give any discretionary power as to their execution elsewhere.

Mr. DANA said, that the discussion which this subject had undergone had decided him in the opinion that the words ought not to be stricken out. The whole execution of the laws was entrusted to Executive officers, and they were to execute those laws uniformly throughout the United States. The construction was wrong to suppose that this influence was improper, because the President or Secretary of State should think this or that a proper way of executing it; and the argument was weak that a particular local attachment would be used. It was no more improper that the Secretary of State should have his particular bias, even if he should make use of it, than that a Marshal should have his particular bias. This, in his view, instead of operating against the measure, was a decisive argument in its favor, in order that the bias of a number should not be left to act so variously as they naturally would, but upon uniform principles. It would not have done to have left that power in the hands of that officer if he was not to be restricted to the meaning of the act, but with this restriction it was necessary.

Mr. OTIS said his great desire to have this law carried into beneficial execution induced him to be averse to striking out the words, for unless they remained, in vain might the Legislature expect any accurate census to be made at any future period. If the particular form of a schedule was to be made by the different Marshals and there were no provisions to be made by law, by which to con-

solidate them into one regular return, how would they be understood, or who know the result? Different would be the forms of returns; some would be more, and some less intelligible; they must all be sent to the Secretary of State; that officer must, without a law or instructions, reduce them into a form at a great expense; whereas it ought to be provided in the law that they may be more readily reduced to form, and this was done by the discretion given to that officer. Farther, the assistants to the Marshal, many of them young men, and inexperienced, would have to ascertain facts about which they had no instructions, as, what is the name of the head of the family? how many reside in this house? &c.

Nor was this a new principle, as contended by some gentlemen. He instanced the act for the relief of American seamen, respecting whom the collectors at the different ports had to transmit a report once in three months, for which the Secretary gives instructions how to make out the abstract. It was similar in the Treasury Department, and in all cases where it was necessary to make a general provision, it was the practice of the Head of the Department to give directions.

It was suggested by the gentleman from Virginia, (Mr. LEE) that there was danger in taking the instructions of the Secretary and of the Marshals. If the conscientious Marshal should still go on and conform to the law, all the facts must appear in the Department of State, and would be submitted to the Legislature for inspection, and it would be in the power of the House to say whether the Marshal or the Secretary of State was wrong: whether or not he had conformed to the law. Therefore, in the event, it would be in his power to do his duty notwithstanding the contrary instructions he might receive, and the House would decide the matter with strict justice.

Mr. JONES thought, as had been expressed by the gentleman from Virginia, that these words conveyed too much power to the Department of State, besides it was not the province of any Executive officer to construe the laws. Laws, after they passed, were generally referred to the Judiciary department of the Government for construction; once out of the hands of the Legislature and they were no longer in their power; but this high and solemn power ought not to be entrusted to the Secretary of State, because it was not a part of his business, and might materially involve the interests of the community. Under this extensive clause the Secretary of State might establish a rule which may operate very severely upon some parts of the United States, and his regulations and instructions were made absolutely final. The gentleman last up thought that the House could determine upon the conduct of the Secretary of State, but had they not the same power over the Marshal's return? The Marshals, if the words were stricken out, would exercise their own judgments, and when the returns were made to the House, they could determine whether they would militate against the interest of any particular parts of the United States or not, and it would be with that House to say how far these returns should operate on the apportion-

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ment of representation. He hoped it was not the disposition of the Legislature of this country to throw this increase of power into the hands of any department, however much that department might merit and obtain confidence.

That this law must be under the direction of some one department of the Government, in order to obtain a uniform operation, he admitted was necessary: this might be done by a clause in the law authorizing the Secretary of State, or some other officer of Government, to forward to the Marshals and Secretaries, exemplified copies of the act and schedule; this would make the operation uniform. To effect this the words might be struck out, and the whole of the 11th section, and the direction, incorporated into the act. It appeared to be the general sense of the House that the instructions should be uniform; this was the most that gentlemen on the other side contended for; he therefore supposed they would agree to some such mode as that.

Mr. EDMOND thought the words ought not to be struck out, for, unless they were retained, there certainly would not be an uniform return. Where the execution of a law was entrusted to a great variety of hands, there must necessarily be a difference in their returns, unless by the intervention of some general instruction they were made uniform. Gentlemen appeared to be jealous of the power they were delegating, but surely it was a necessary power. They seemed to forget that there were other officers to be employed in this business besides the Marshals; assistants were to be appointed by sixteen different tribunals; in some States the number of assistants would be more, in some less. As the Marshals could not dictate to the "consciences" of their assistants, (for they must give them instructions,) would they not be subjected to as much difficulty as was supposed might exist between the Secretary of State and the Marshals? If the Marshals were left to instruct their assistants, each might give different directions, and the consequence would be that sixteen different modes would be brought to the House.

The Secretary of State, as it now stands, undertakes to prescribe to the Marshal a certain mode for the execution of the law; if the Marshal should conceive that prescription required more than the law pointed out, he would not execute it thereby; but by the law. On the other hand, if the prescription does not point out as much as the law, he will certainly still act as the law directs; neither result would lessen the information he might think it necessary to obtain. If the provision remained, perhaps twelve out of sixteen might think the mode established by the Secretary right, and so far there would be uniformity. This would be the most likely way, he thought, to produce it; and sure he was that nothing would control the conscience of the Marshal, for, after all the instructions, he must be governed by his oath.

Mr. RUTLEDGE believed that, if in every stage of proceeding in this very difficult business, the mode of executing the law was not prescribed, the law could not be carried into effect during the ten years the Constitution had pointed out. There appeared

to him to be an unfounded jealousy harbored by gentlemen, which must be removed by a due attention to the law, and the necessary circumstances of it. The direction was entrusted, where difficulty should occur, to the Secretary of State. Did not all the gentlemen know, that when difficulties occurred to the inferior officers, employed in the execution of all laws, they must be removed by the Heads of the Department to which they were attached? Thus in the direct tax, the Secretary of the Treasury prescribed the mode of its operation—but when that power was given, it was not even suggested, nor was it ever experienced, that he exercised any control over the law itself; he only directed the form and manner of filling the schedule, and this power was delegated that the return might be accurate and uniform, and this uniformity was indispensable.

Gentlemen coming into the House in this stage of the debate would conceive, from the opposition made to these words, that the House were about to invest the Secretary of State with full control over the law. Although the motion was so strongly enforced, yet no gentlemen had pretended to say that the Secretary possessed any controlling power over the law, but they were jealous of a power which could not be executed; yet those gentlemen allowed that the instructions must come from somewhere. It appeared to him, Mr. R. said, that the whole alarm was by *shadow*, and upon a complete investigation it would appear that the *substance* did not, nor ever would, exist. He said he had attended minutely to the argument, wishing to be convinced of the impropriety of the words moved to be stricken out, if there existed any, but he was not convinced of any, nor could he conceive how anything else could be substituted to answer the purpose contended for. These difficulties would never be dispelled nor the law put into execution if the Marshals were to come to the House and ask information. The only effectual way, in his opinion, to get the law executed was by entrusting the instructions with the proper department—the Secretary of State.

Mr. MACON could not conceive how the effect supposed by the gentleman from South Carolina (Mr. RUTLEDGE) could be produced for a want of this provision, to wit, the non-execution of the law in the ten years. It could not have that effect, nor was the suspicion warranted by experience. The former law had none of these words, but was well executed, and the case which occurred in South Carolina was not from that cause. It appeared to him that the House were giving up the benefit of experience, merely for the sake of novelty. The return and apportionment were made under the former law without difficulty, or complaint of irregularity in the proceeding.

The case stated by the gentleman from Virginia was possible, and if an injury could possibly occur therefrom it must be felt by every part of the Union, which ought not to be hazarded by any new introductions, the beneficial effects of which could not be known. It may be useful, or it may not. To put it on its best footing, therefore, as there was a possibility of inconvenience from the different

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constructions of the law, it would be wise to avoid that part of the law which would produce that uncertainty, especially as no great necessity for that part was contended for. If, as was thought by the gentleman from Connecticut, (Mr. EDMOND,) there should arise a difference between the Marshals and their deputies, the remedy would be easy, for the Marshal could easily displace his deputy.

Mr. CRAIK said he had heard no gentleman argue in favor of giving the Secretary of State any control, *in substance*, over this act; the only difference of opinion appeared to be as to the mode of obtaining the principal objects of the bill, for all agree that some general superintendence was necessary, to act as a control over the officer who should execute the law. The words appeared to him to be nothing more than a designation of that control. If gentlemen were desirous of defining what the directions of the Secretary of State should be, he should have no objection to its introduction into the bill. He should therefore be in favor of the words remaining, and of any addition to the amount stated to be made to the 8th section.

Mr. REED observed, that it having repeatedly been argued that there were no inconveniences in the execution of the former law, he thought it necessary to rise and inform the House that it was not the case, and there was not that uniformity gentlemen conceived. In some of the divisions, while executing the old law, deputies went into all the houses, while others went into scarcely any, but made their inquiries of other persons. He thought at that time it was a great grievance, and some provision was necessary to compel more uniformity and accuracy. From this and other reasons which had been adduced, he hoped the words would remain.

Mr. RANDOLPH said the provisions of the bill were so express, and the directions to the Marshals so explicit, that he was at a loss to conceive where any want of uniformity could possibly originate. Some gentlemen had told the House that certain interrogatories should be devised by the Secretary of State, and issued by him to the Marshals, to be put to householders. It appeared to him that the law had already designated those interrogatories, in the first section, which were to be put by the assistants; they were there informed what was the information wanted; into what division of persons they were to make their lists, &c.; and it required no great foresight in them to know what questions to ask, whereby to come at those facts which were precisely stated as their duty. The business could not be executed better, if put under the superintendence of the Secretary of State. How could he remedy an evil which their oath would not prevent? For by their oath they were to make "a just and perfect enumeration and description of all the persons resident within their respective divisions." He could not conceive what reason operated now to make these words necessary which did not at the formation of the former act, since no evidence had been adduced of its incompetency. Every Marshal would take a copy of the schedule required, and it would operate on their duty uniformly, and if that uniformity was

not attainable by the law, it could not be by the Secretary of State.

The question was taken by yeas and nays, and the motion negatived—39 to 45, as follows:

YEAS—Willis Alston, Theodorus Bailey, Phanuel Bishop, Robert Brown, Gabriel Christie, Matthew Clay, William Charles Cole Claiborne, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, John Fowler, Albert Gallatin, Samuel Goode, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, George Jackson, James Jones, Aaron Kitchell, Henry Lee, Michael Leib, Matthew Lyon, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Robert Page, John Randolph, John Smilie, Richard Stanford, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abraham Trigg, John Trigg, Philip Van Cortland, and Robert Williams.

NAYS—George Baer, Bailey Bartlett, John Bird, Jonathan Brace, John Brown, Christopher G. Champlin, William Cooper, William Craik, Samuel W. Dana, John Davenport, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glenn, Chauncey Goodrich, Elizur Goodrich, William Gordon, Edwin Gray, Roger Griswold, William Barry Grove, William H. Hill, James H. Imlay, Silas Lee, Samuel Lyman, John Marshall, Lewis R. Morris, Abraham Nott, Harrison G. Otis, Josiah Parker, Jonas Platt, Leven Powell, John Reed, John Rutledge, junior, Samuel Sewall, William Shepard, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time tomorrow.

RESPECT TO THE MEMORY OF GENERAL WASHINGTON.

The SPEAKER informed the House that, in pursuance of the resolution of Friday last, he had addressed to Major General HENRY LEE, one of the members for the State of Virginia, the following letter:

"PHILADELPHIA, Dec. 27, 1799.

"DEAR SIR: The enclosed resolutions, which unanimously passed the House of Representatives this day, will make known to you how highly they have been gratified with the manner in which you have performed the service assigned to you, in preparing and delivering a funeral oration on the death of General WASHINGTON. That our constituents may participate in the gratification we have received, from your having so well expressed those sentiments of respect for the character, of gratitude for the services, and of grief for the death of that illustrious personage, I flatter myself you will not hesitate to comply with the request of the House, by furnishing a copy of your oration, to be taken for publication.

"Allow me, while performing this pleasing task of official duty in communicating an act of the Representatives of the People, so just to you and so honorable to themselves, to embrace the opportunity to declare that I am, personally, with great esteem and sincere regard, dear sir, your friend and obedient servant,

"THEODORE SEDGWICK.

"The Hon. Maj. Gen. LEE."

To which Mr. LEE had replied as follows:

"FRANKLIN COURT, Dec. 28, 1799.

"DEAR SIR: I owe to the goodness of the House of

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Representatives the honor which their resolutions confer on my humble efforts to execute their wish.

"I can never disobey their will, and therefore will furnish a copy of the oration delivered on the late afflicting occasion, much as I had flattered myself with a different disposition of it.

"Sincerely reciprocating the personal considerations with which you honor me, I am, very respectfully, sir, your friend and obedient servant,

"HENRY LEE.

"The SPEAKER of the House of Reps."

Mr. MARSHALL, from the joint committee appointed to consider and report what measures ought to be adopted in honor of the memory of General WASHINGTON, made another report in part, which was unanimously agreed to by the House, in the words following, to wit:

Resolved, by the Senate and House of Representatives of the United States in Congress assembled, That it be recommended to the people of the United States to assemble on the twenty-second day of February next, in such numbers and manner as may be convenient, publicly to testify their grief for the death of General GEORGE WASHINGTON, by suitable eulogies, orations, and discourses, or by public prayers.

And be it further resolved, That the President of the United States be requested to recommend the same, by a proclamation for that purpose.

Ordered, That the Clerk of this House do carry the said resolutions to the Senate, and desire their concurrence.

TUESDAY, December 31.

ENUMERATION OF INHABITANTS.

The bill providing for an enumeration of the inhabitants of the United States, was read the third time; and, on the question of its passage,

Mr. PAGE rose and moved its reconsideration in a Committee of the Whole, for the purpose of making the following amendment at the end of the eighth section.

"*Provided* That the directions, regulations, and instructions, which the Secretary of State is hereby authorized to give to the Marshals of the several States, shall be confined to the forms necessary to be observed by them respectively, in taking the census herein provided for, and making the returns thereof."

It was stated yesterday, he observed, and he believed it to be a fact, that the bill now under consideration contained an important innovation upon the bill formerly passed upon the same subject. Whenever the House are called upon to amend the forms of law, or to make alterations in one which it might be found necessary to renew, it should always be made to appear that great inconveniences attended its former execution. This has not been made to appear, nor have any arguments for the necessity of the new principle, which yesterday passed the House, been introduced. The same officers were mostly now in office, he conceived, who were engaged in the execution of the former law, and there had been no complaints of any difficulty or fault in its execution, from which he concluded the innovation was unnecessary.

Experience was always the best guide in mat-

ters of legislation; as therefore no difficulty was formerly found, none could exist under the operation of the same law at present. He objected to the principle, farther, because it furnished a latitude of construction to the Secretary of State which might defeat the salutary effects of the law. It also went to establish a precedent for increasing authority, which the history of mankind forbade, in the numerous evils attendant thereon. New power was generally injurious, and, unless from peremptory necessity, ought never be delegated. In his opinion it was as important a question as could come before the Legislature, because the object of this law was to affect the very sinews of the Republic by affixing its representation, which if wounded would be felt in our dearest interests. From this important view, and to introduce what was declared to be the wish of many, and yet suffer the avowed object of others to remain, in the bill, he thought a short time would be well spent in its reconsideration.

Mr. GRISWOLD thought, from the explanation yesterday given to the bill, and the opportunity gentlemen then had to amend it, there could be no necessity for its reconsideration.

Mr. DANA declared himself perfectly satisfied with the safety of the bill from any undue interposition. Yet, in order to give gentlemen every opportunity of a full and fair discussion, he should vote for the motion.

Mr. NORR said he voted yesterday against striking out the words, as moved, in expectation, from some observations which dropped from several gentlemen; that a motion would be afterwards made to amend the eighth section. It struck him at that time, and he was still of opinion, that the provisions of the bill ought to be superintended by the Secretary of State, but that some inconveniences wanted removing. Being disappointed in that expectation, he hoped the bill would be re-committed.

On the question for the bill generally to be re-committed to the whole House, the motion was negatived—yeas 37, nays 39.

Mr. CHRISTIE then asked whether it was in order to recommit a particular part. After a few observations as to the point of order, the SPEAKER giving his opinion that it was in order, Mr. C. moved a reconsideration of the eighth section.

Mr. RUTLEDGE declared himself in favor of the motion; not because he was dissatisfied with the bill as it stood, for he hoped no alteration would take place, but because a member had voted for retaining certain words in expectation that an amendment would afterwards take place in the eighth section. He wished a full discussion, and should be sorry to do anything that looked like entrapping any member. He said, he voted against the general reconsideration, because the ground of debate would be renewed, and the time of the House lost, but on this single section the ground would be exceedingly narrow.

Mr. THATCHER said the gentleman from South Carolina (Mr. RUTLEDGE) was certainly mistaken in his idea of "entrapping," because the bill had been open to any amendment, but none was introduced;

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from which it was just to infer none would be; and as the bill then passed to engrossing without even a motion to the contrary, he hoped no reconsideration would be allowed.

Mr. JONES observed, that in the former debate, gentlemen seemed astonished at the alarm entertained by the members who were in the minority. As to himself, he said, he was not alarmed on account of this bill alone, for he did not suppose the Secretary would disgrace his character by taking any injurious steps, even if he had the power; but he was alarmed to see any power vested in any department that was unusual; not on account of this particular power vested in this particular Secretary of State. But, could he have been easy at the present moment as to this innovation, he asked whether gentlemen did not now justify an alarm, when they merely wished the introduction of the principle on account of form and not of substance? If only matter of form, what in the name of God could be their objections to say so in the law? Let the bill be recommitted and the alteration be made, and no alarm would exist for a moment. But, when this reluctance was so apparent, to say there was not just cause for alarm was an absurdity. If the words were not intended to have an injurious operation, on which the alarm was built, gentlemen would admit the amendment into the bill to express what they themselves avowed to be their only object. But if they persisted in opposing this explanatory provision, at least the minority were justified in being alarmed. If, therefore, the Secretary was to have no power over the law, then of course his authority would be designated and confined as to the form and tenor of the instructions.

Mr. DANA said, agreeably to his declaration before, he had determined to vote for the reconsideration of the section, until he heard the observations of the gentleman last up; that gentleman having taken up the subject upon such general principles—extending his observations to the great question of Executive power—as to make him desist from that determination. What had Executive power to execute under this act? May not the discretion be as well and properly entrusted to the Secretary of State as to other Executive officers—the Marshals? This question has no kind of relation to any Constitutional principle; but, the discussion having gone upon that ground, Mr. D. said, if he agreed to a reconsideration, it would comprehend him as voting with others in favor of the great alarm, and declaring himself not to know the difference between Executive and Legislative authority, and, therefore, upon the ground which the gentleman had meant to vote for, he was now decidedly against it.

Mr. SMILIE was surprised at the attempt of gentlemen to insert an entirely new principle into this law, and that surprise arose from the consideration that the law had operated as well as gentlemen could wish; but, notwithstanding no fault could be found which might reasonably be expected to be mentioned as the ground of its introduction, a principle that never before had existence was inserted! He had no hopes that the former minor-

ity would obtain their wish, because it appeared to be determined already, but he hoped the principle would be again opened for discussion.

Gentlemen appeared surprised that suspicion should be felt by any member; for himself, he declared without shame, that he had suspicion, and he believed it well grounded; but it originated in the conduct of gentlemen on the other side of the question, as much as from the words themselves. How far the instructions or regulations of the Secretary of State to the Marshals would extend, could not be ascertained without the introduction of some boundary. Although it had been said that it was only the introduction of a matter of form and not of substance, yet the Secretary could go a great way by the power which the bill committed to him. In his opinion it placed the Marshal, between his oath and the instructions of the Secretary, in the exact situation mentioned yesterday by the gentleman from Virginia (Mr. LEE.) As this might happen, and as considerable injuries might occur if the power was improperly used, he hoped the section would be recommitted for the necessary amendment.

Mr. MARSHALL was persuaded that there was no member in the House who wished to commit to the Executive officers any power which they did not possess by the Constitution. So far as his own convictions and opinion went, the fears of gentlemen on that head were perfectly void of foundation. But, though he thought so, he should vote for the recommitment, out of that respect which he thought was due to every gentleman. A member supposing the 8th section might be reconsidered, supposing that some amendment might be brought forward, and supposing that his own opinions might be heard, and have their weight with the House, had voted in a manner different from his wish: should not that member be indulged with a reconsideration?

From this consideration, Mr. M. said he felt himself extremely inclined to vote for a reconsideration; and, feeling so, he should not think himself justifiable in being prevented that duty from any observations which should have fallen from another gentleman. Supposing another gentleman did wrong in extending his ideas beyond the precise limits of the question, should that operate as a reason to vote against that motion? In this he differed from his friend from Connecticut (Mr. DANA.) He did not place it upon that ground, and, therefore, should not be deterred from his duty by that consideration.

Mr. NORR, after expressing his design to rise only where his duty called him, on account of the number of gentlemen of superior talents which he beheld around him, observed that his desire of reconsideration was not on account of any alarm which he felt, because he did not conceive the section gave that extraordinary power to the Executive which was apprehended by some gentlemen; but as it was considered that the power given might extend further than was contemplated by the friends of the bill, in the differences which might exist between the Marshals and the Secretary of State, so as to prevent the execution of the

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law, although he thought the Marshal ought to be under direction of the Secretary of State, yet he thought an amendment was necessary to define the business assigned. Seeing many gentlemen of the same opinion more able to introduce the amendment, than himself, he had forborne. He conceived that a grammatical error existed in the bill: the form of schedule was particularly marked in the first section, but in the 8th section, the Secretary of State was to direct the form of schedule. There appeared to be a duty where none was requisite, and might cause errors in the returns. However, he did not wish the section to be re-committed merely on account of his misunderstanding.

Mr. OTIS rose to explain the objection respecting the schedule. The one in the first section went merely to direct the secretaries and assistants, but the one to be under the direction of the Secretary of State was the form of an aggregate schedule to be returned by the Marshals into his office.

The argument that the law should not be touched because the provision did not exist in a former law, he thought very weak; it was the first time he had heard objections made to laws being amended upon that ground; if that kind of argument was good, laws would never be amended. Still, faults may exist, which, from various causes, were never pointed out. As he conceived the motion would extend beyond the mere verbal amendment, and the design was again to try the principle, he hoped it would not be reconsidered.

The motion was lost—yeas 41, nays 43.

The bill was then passed without an amendment.

IMPRISONMENT FOR DEBT.

The House resolved itself into a Committee on the bill for the relief of persons imprisoned for debt, also the bill for allowing salvage in cases of recapture.

These bills were passed by the Committee and by the House, and ordered to be engrossed for a third reading.

WEDNESDAY, January 1, 1800.

REDUCTION OF THE ARMY.

Mr. NICHOLAS rose and observed, that he was so well informed of the necessity the House would be under, in the course of the present session, to find additional supplies to meet the expenses, that it must appear an incumbent duty on every gentleman who wished to provide for that object, to state it in the early part of the session. It would soon become the duty of the Committee of Ways and Means to make a report of the supplies wanting, to provide for which, he thought it proper to know the sentiments of the House, on what changes may be necessary from the existing establishment. For his part, he was well convinced that a considerable saving might be made by lopping off all unnecessary expenses in the army establishment. It would be entirely unnecessary to go into the argument at this time, therefore he would merely lay on the table a resolution which

he should call up some time next week, after the private report of the Secretary of the Treasury was before the House. The resolution is in the following words:

Resolved, That so much of the act passed the 16th July, 1798, entitled "An act to augment the Army of the United States, and for other purposes," as authorizes the President of the United States to raise twelve additional regiments of infantry, and six troops of light dragoons, and to appoint two Major Generals, an Inspector General, three Brigadier Generals, and an Adjutant General; and so much of the act passed the 3d of March, 1799, entitled "An act for the better organization of the troops of the United States, and for other purposes," as authorizes the appointment of a Commander of the Army, and a Quartermaster General, ought to be repealed.

Mr. OTIS said he rose upon this resolution in compliance with a duty he owed the Committee of Defence, of which himself and the gentleman who laid the resolution on the table were members, to state that application was made to the Secretary of the War Department for information on the state of the Military Establishment; until that report was obtained, he thought this resolution improper, for in conformity to that report the Committee would, no doubt, propose some resolutions to the House. He wished the resolution had not been read, because it might cause some alarm, and probably affect our interests at home as well as abroad. Notwithstanding it might be a general belief that some retrenchment of expenses would be necessary, and though it was probable that some modification of the existing Military Establishment might be adopted with a view to save expense, yet he did not believe that in the actual state of things this House would discover such a versatility of temper and system as to disband the Army by a single resolution.

Mr. NICHOLAS replied that he would not be in haste to call up the resolution; and was willing to let it lie, till every information could be obtained that might be wished upon the subject.

The resolution was laid on the table.

JURISDICTION OF MISSISSIPPI.

Mr. MACON presented a petition of sundry inhabitants of the Mississippi Territory, residing on the Tombigby and Mobile rivers, praying for a confirmation of their title to certain lands, and for the free navigation of said rivers; which Mr. M. moved to have referred to a select committee.

Mr. JONES objected to the House legislating on this subject, on the ground that it involved a right of the State of Georgia to the jurisdiction of that Territory; and that as commissioners had been appointed by act of Congress to settle all existing difficulties as to the jurisdiction of that State, it would be improper for the House to hold forth any encouragement to the petitioners—an encouragement which would only prove delusive, because this House had not the power to grant the relief prayed for. He therefore hoped the petition would be ordered to lie on the table till the claim of the State of Georgia to that Territory should be settled.

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Mr. TALIAFERRO and Mr. NICHOLAS advocated the opinion of Mr. JONES.

Mr. GALLATIN thought this was bringing a great and important question before the House in a very indirect way. Before we decided upon this claim, a committee ought to be appointed to inquire what progress had been made by the commissioners appointed to settle the claims of Georgia; and if the question came before the House in any shape, it ought to be in the only proper one, "to whom does this Territory belong?" Mr. G. was decidedly against the reference of the petition to a select committee.

Mr. CLAIBORNE said the petition contained other subjects than the right objected to by Georgia. The navigation of the Tombigby and Mobile rivers, of which they were deprived, was essentially necessary to the commerce of that part of the world, and their claim to this was certainly worthy of attention. The committee, in their report, might be silent as to any subject which would involve the objection urged against the reference.

MESSRS. MACON, SEWALL, and RUTLEDGE, were also in favor of the commitment. After a long debate, Mr. MACON waived his motion, so as to have the petition referred to the committee to whom was committed a similar petition on the 24th ult.—which was agreed to.

THURSDAY, January 2.

RICHARD DOBBS SPAIGHT, from North Carolina, appeared, produced his credentials, was qualified, and took his seat.

PETITION OF FREE BLACKS.

Mr. WALN presented a petition of Absalom Jones and others, free men of color, of the city and county of Philadelphia, praying for a revision of the laws of the United States relative to the slave trade; of the act relative to fugitives from justice; and for the adoption of such measures as shall in due course emancipate the whole of their brethren from their present situation; which he moved to have referred to the committee appointed to inquire whether any and what alterations ought to be made in the existing law prohibiting the slave trade from the United States to any foreign place or country.

The petitioners, after mentioning their sense of the bounties of Providence in their freedom, and the happiness they felt under such a form of Government, represent that they cannot but be impressed with the hardships under which numbers of their color labored, who they conceived equal objects of representation and attention with themselves or others under the Constitution. That the solemn compact, the Constitution, was violated by the trade of kidnapping, carried on by the people of some of the Southern States on the shores of Maryland and Delaware, by which numbers were hurried into holes and cellars, torn from their families and transported to Georgia, and there inhumanly exposed to sale, which was degrading to the dignified nature of man. That by these and other mea-

sures injurious to the human species, there were 700,000 blacks now in slavery in these States. They stated their application to Congress to be, not for the immediate emancipation of the whole, knowing that their degraded state and want of education would render that measure improper, but they ask an amelioration of their hard situation. They prayed that the act called the fugitive bill, which was very severe on that race of people, might be considered; also that the African slave trade might be put a stop to.

Mr. WALN moved its reference to the committee appointed to prohibit carrying on the slave trade to any foreign place or country.

Mr. RUTLEDGE thought any reference at all very improper; he hoped it would be laid on the table, and with a view never to be called up hereafter. Petitions of this sort had repeatedly come before the House, only with the difference of transfer of hands. When the Congress sat at New York, they spent much time and attention on the subject, but no sooner had it been decided that nothing could be done, than the same scenes were acted over again by repeatedly petitioning. Those gentlemen who used to come forward, to be sure, had not avowedly come forward again, but had now put it into the hands of the black gentlemen. They now tell the House these people are in slavery—I thank God they are! if they were not, dreadful would be the consequences. They say they are not represented. To be sure a great number of them are not. Farther, they say they are sent to the Southern States. Who can prevent that? Persons possessing slaves have a right to send them there if they choose. They tell you that they are brought from Africa. This matter is in a train to be prevented, the subject being now in the hands of a committee. Already had too much of this new-fangled French philosophy of liberty and equality found its way and was too apparent among these gentlemen in the Southern States, by which nothing would do but their liberty. This appeared to be the intention of the petition, but he supposed the people of the Eastern States had felt as much in having them among them as those of the Southern States in losing them, and therefore he believed gentlemen from those parts would vote with them. However, he considered this subject very improper and unconstitutional to discuss, and, from the ill effects it might produce, should say no more.

Mr. WALN thought the gentleman mistaken as to the nature of the petition; it related but two grievances: one was, the operation of the fugitive act, by which free men were carried and sold into slavery, and the other was the slave trade. He did not wish to enter into general principles, because he conceived it as improper as any gentleman, but he could see no good reason why the petition might not be committed; every petition presented to the House ought to receive that attention, and a rejection of the present without examination could have no good effect.

Mr. SMILIE was much surprised at the opposition of the gentleman from South Carolina to the reference. To be sure a great part of what these people asked, as far as he was acquainted with it,

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was out of their power to grant, but there was much of the petition which was within the power of the House. So far as they had power, he considered it the duty of the House to attend and grant relief. He could wish to drop some ideas on the situation of those people, but felt a contrary impulse from motives of prudence. However, he must consider them as a part of the human species, equally capable of suffering and enjoying with others, and equally objects of attention, and therefore they had a claim to be heard.

Mr. ORIS hoped the petition would not be committed; he had never seen a petition presented under a more dangerous and unpleasant aspect. It appeared to be subscribed by a number of individuals who were incapable of writing their names, or of reading the petition, and, *a fortiori*, of digesting the principles of it. It therefore was a petition of certain men made out by other men, who ought to have come forward themselves, but had forbore. To encourage a measure of the kind would have an irritating tendency, and must be mischievous to America very soon. It would teach them the art of assembling together, debating, and the like, and would soon, if encouraged, extend from one end of the Union to the other. A great part of the petition was improper, and the other part entirely unnecessary. No particular object or evils were pointed out in the fugitive law, but the truth was, they wanted a repeal of the law. Although, he thanked God he had no slaves, nor ever wished to possess any, yet he thought the subject ought not to be meddled with by the General Government, and if any grievances existed they were properly and only objects of legislation in these several States. It was the duty, and he thought the interest of the States, while they were kept in servitude, to ameliorate their situation as much as consisted with security. He thought those who did not possess that species of property had better leave the regulation of it to those who were cursed with it. However, it was unjust to intermeddle with it to the injury of the possessors.

Mr. H. LEE observed that gentlemen were sent to that House to protect the rights of the people and the rights of property. That property which the people of the Southern States possess consisted of slaves, and therefore Congress had no authority but to protect it, and not take measures to deprive the citizens of it. He said he held himself not second to any gentleman in a genuine attachment to the rights of humanity, but he could not believe that great ends would be answered by the reference of the petition, but much evil might accrue. It contained sentiments which he thought it would be highly improper so far to encourage. One object prayed for in this petition was now in the hands of a committee; let that committee report respecting the Guinea trade, let it be entirely obliterated; to that he would agree with all his heart, but he hoped the House would never intermeddle with the property of any of the citizens. Instead of voting with the worthy member who wished it to lie on the table, he would have it returned to the gentleman who presented it, as the only effectual means of checking an injurious practice.

Mr. RUTLEDGE, in addition to his former arguments, observed, that so improper was it to consider this subject that some of the States would never have adopted the federal form of Government if it had not been secured to them that Congress would never legislate on the subject of slavery. Inasmuch, therefore, as it might rouse the jealousy and fears of those States, the least attention paid to it might do mischief.

Mr. THATCHER said that gentlemen generally set out wrong, on this subject, and leave off about half right; they debated till they were almost tired, and then the petition was not to be committed. If Congress had not power to legislate on the African trade, then why did they say it was with a committee? If they had power, where was the impropriety of referring, at least that part which could be considered? Would any gentleman say that it was policy not to legislate about 700,000 enemies, in the very body of the United States? While they were slaves they were enemies. He declared a greater evil than the very principle could not exist; it was a cancer of immense magnitude, that would some time destroy the body politic, except a proper legislation should prevent the evil. It must come before the House sooner or later. Then why postpone it? It was true the Eastern States were now suffering from the streams which issued from this great and dangerous fountain, but the evil ought to be stopped, ere it become too strong.

Upon principles less general, he contended the petition, which was couched in as decent and respectful terms as was possible, should be referred. Whether the petitioners were black or white, whether they could write, or whether not, was entirely immaterial: they stated their sufferings under a law of the United States, and that was argument enough for a respectable reference. Because they could not write, were not their rights to be secured to them? Strange doctrine! A great reason why they could not write was their being brought up in early life in slavery.

If gentlemen saw so great evil rise out of the debate on this subject, why did they introduce the evil practice? They might have silently suffered it to have been committed; no evil could have arisen therefrom, because the committee would have reported only consistently with the power of the House to grant.

Mr. BROWN, of Rhode Island, said he was in hopes that every member belonging to the Northern States would have seen by this time the impropriety of encouraging slaves to come from the Southern States to reside as vagabonds and thieves among them, and have been tired of the bad policy. No subject surely was so likely to cause a division of the States as that respecting slaves. He did not hold a slave in the world, he said, but he was as much for supporting the rights and property of those who did, as though he was a slave owner. He considered this as much personal property as a farm or a ship, which was incontestably so. He went into a view of the federal compact, to argue the impropriety of legislating on the subject. This petition, he said, did not come from the blacks, but

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from a combination of people who had troubled Congress for many years past, and he feared never would cease. He did not fear the power of the 700,000 enemies that the gentleman had pointed out, since there were five millions to withstand them; they could at any time subdue them. He begged that the gentleman, who put the petition on the table, might be desired to take it back again. He was sorry to see the commitment supported by two such worthy members of the House, both good Federalists. [A laugh.]

We want money, said Mr. B., we want a navy; we ought therefore to use the means to obtain it. We ought to go farther than has yet been proposed, and repeal the bills in question altogether, for why should we see Great Britain getting all the slave trade to themselves; why may not our country be enriched by that lucrative traffic? There would not be a slave the more sold, but we should derive the benefits by importing from Africa as well as that nation.

Mr. WALN contended, that at least the House had the power of legislating on the state of free blacks as well as other people, and on the slave trade, much of which was still carrying on from Rhode Island, Boston and Pennsylvania. This ought to be looked into. He denied that any idea had ever entered his mind on presenting the petition either to debate on the subject, or to will an emancipation of the slaves. Gentlemen from the Southern States appeared to lament there were so many among them, but their conduct was very contrary to their declaration.

Mr. HILL thought if any evil existed under any law now in force, a committee ought to be appointed, to examine into and correct it; but he hoped the petition would not be committed. It was to be lamented that this kind of property did exist; but it did exist, and was sanctioned by the Constitution. That being the case, the House ought to set their faces against any innovations on it, either directly or indirectly.

Mr. DENNIS rose, he said, principally because he conceived the petition implicated the justice of the States of Maryland and Delaware, respecting the abominable practice of kidnapping. In justice to the State he represented, he must say that none of this evil was attributable to that State, because they had enacted extremely penal laws to stop it. He wished the petition to lie on the table, because the objects of it appeared to be extremely multifarious, and, he believed but few members knew its contents, from the different opinions they had advanced. He wished them to have an opportunity of examining it.

Mr. RANDOLPH hoped that the conduct of the House would be so decided as to deter the petitioners, or any persons acting for them, from ever presenting one of a similar nature hereafter. The effects must be extremely injurious. He did wish that the conduct of the House would have been so indignant as to have passed it over without discussion. He should not, therefore, say anything that would tend to encourage that discussion. The Constitution had put it out of the power of the House to do anything in it, and therefore he hoped

the motion for a reference would be lost by a decided majority, and this be the last time the business of the House would be entered upon, and the interest and feelings of the Southern States be put in jeopardy, by similar applications.

Mr. CHRISTIE said the gentleman was mistaken, if he thought it would be the last time, for a certain society had thought it their duty to present petitions of this nature to Congress every year since he was acquainted with it; but he hoped this, which came from that source, but through other hands, would have the fate of all the rest, and go under the table instead of upon it. As to the fugitive law, he would wish it to be taken up, and if no other member moved it, he should; but not for the purpose of repeal or weakening, but to make it stronger. There was now a fine laid upon any person who should harbor a black, knowing him, or her to be a slave; he wished the provision should be that the persons harboring should know that he or her was not a slave. He mentioned the great desire of his State to prevent kidnapping, for which their laws were very severe.

Mr. HARPER had hoped that the House so well understood this subject, as to the people who instigated the petitioners to come forward, who well knew that nothing could be done by Congress, as to decide on it instantly. This was the act of a religious body of people whose fanaticism leads them to think it a bounden duty to come to the House every year, though they now come in a different name. By this measure they had discharged their duty; all that now remained was for the House to discharge theirs. He hoped, from the present time, they should merely let the petition be read and pass it over in silence—for he expected that society would continue presenting petitions. The obvious tendency of agitating this question would only be to create discontent in a class of people whom it was out of the power of the Legislature to change the situation of. He called upon gentlemen to say whether a temper of revolt was not more perceptible in that quarter? It was; and what was the cause of it but that they were not let alone by those people; but if others would disturb them, he hoped at least that House would cease to do it.

Mr. DANA said if the petition before the House contained nothing but a farrago of the French metaphysics of liberty and equality, he should think that it was likely to produce some of the dreadful scenes of St. Domingo. Or if he believed it was only the effects of a religious fanaticism in a set of men who thought they were doing their duty, though he thought the subject quite out of the power of Congress, he might be disposed to think it quite wrong. But when he perceived a petition, addressed in language which was very decent, and which expressly declared that the petitioners did not wish the House to do what was inconsistent with the Constitution, but only asked an amelioration of the severities under which people of their color labored, he thought it ought to be received and committed. He did not think the gentleman who presented it ought to withdraw it,

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nor was he the least culpable, but executed a duty he conceived him bound to.

Mr. JONES said the petition threw so much aspersions upon the State he represented (Georgia) that he must think it his duty to rise. Why was that State to be selected out from all others? However, he should follow the petition in its parts, in order to show that the petitioners actually had asked what it was not in the power of the House to legislate upon—emancipation. It was said to merely affect the slave trade.

First, the petitioners contemplated that those people (the slaves) ought to be represented, "with us and the rest of the citizens of the United States." Then they speak of the Federal compact, in which they consider those people as interested in common with others, under these words: "we, the people of the United States of America," &c. I would ask gentlemen whether, with all their philanthropy, they would wish to see those people sitting by their sides deliberating in the councils of the nation? He presumed not. They go on farther and say, "We do not ask for the immediate emancipation of all, but we ask you to prepare the way for the oppressed to go free, that every yoke might be broken, thus keeping up the principle to do unto others as you would they should do unto you." The words need only be read to convince every man what is the tendency of their request. The gentleman farther says, that 700,000 men are in bondage. I ask him how he would remedy this evil as he calls it? but I do not think it is any evil; would he have these people turned out in the United States to ravage, murder, and commit every species of crime? I believe it might have been happy for the United States if these people had never been introduced amongst us, but I do believe that they have been immensely benefited by coming amongst us. It was the British Government that transmitted them down to us when in a colonized state, but being here, and being the property of individuals, after obtaining our common liberty and forming our Federal compact, property and safety were guaranteed to every individual and State in the Confederation. How then can this House meddle with that part of our property? The General Government has no power over it. With respect to that part of the petition which said that these people were crowded into cellars and transported to Georgia, Mr. J. informed the House that the importation to that State by sea had been prohibited; none had come there by sea for many years, and offenders against that law were fined £100 sterling for each individual thus introduced. He hoped the petition would be treated with the contempt it merited, and thrown under the table.

Mr. RUTLEDGE rose to move that the question might be decided by *yeas* and *nays*. It was a practice he generally was against, and scarcely ever moved, but he considered this of importance sufficient to demand it. It was a question in which the interests of a great number of people in this country were involved. He had no doubt it would be lost by a very great majority, and he thought it would have a good effect to be recorded by how

vast a majority it would be lost. He thought it would be some consolation to his constituents, when he returned home, to say how few of the House of Representatives were the supporters of this dangerous petition.

Mr. WALN said if he had known that this petition would have caused so much alarm, he certainly should have desired the petitioners not to present it; but if they had still thought it necessary and been desirous of it, he should, as he then thought it within the power of Legislation, and still thought so, have presented it. He thought it his duty, whenever any individual conceived himself injured by a law, to receive his petition, and he thought himself in no wise implicated in the manner, form, or subject of the petition, or answerable for it as containing his opinions. If it should be supposed that the assertions in the petition were unfounded, or bore too hard on a certain State, the only way to ascertain that fact was by referring to a committee, that the necessary inquiries might be reported. He again declared his disapprobation at this subject undergoing any discussion, nor would it have taken place had not the gentleman from South Carolina commenced it.

Mr. PLATT conceived that everything which was brought before that House ought to be committed, unless there was manifest indecency in the language, or it should appear that the relief prayed for could not be granted consistently with the power of the House. In his opinion, except one of these two causes prevented, it unquestionably ought to be thus disposed of. As for indecency of expression, he could perceive none, either in the petition, or in the arguments of the gentlemen who advocated its reference. A third reason indeed might be mentioned, which was, that the persons whose names were signed did not give consent to the petition, and therefore it was not their act. Neither of these reasons was proved to have existed.

Although, agreeably to the Constitution, Congress could not make any laws to prevent the emigration or importation of any persons whom the several States should, at the adoption thereof, think proper to admit, yet Congress could, and had made laws relative to fugitives from justice and previous to the year 1800. It was this law they prayed the amelioration of, and that the power of persons over their slaves might be limited, and that the law might be so amended as to prevent its violation. It was for that, and not for the general abolition of slavery they prayed, and surely they ought to be heard; their prayer ought to be committed for that purpose.

He disclaimed the least desire, but an abhorrence, of any principle that would rob persons of their property, but at the same time he was not such a dupe to *words* as to be of the opinion held up by a gentleman that because the French had used the words "reason" and "philosophy" he should discard them, and with them humanity!

Mr. THATCHER thought that to make use of the incapacity of these people to read or write, as an argument against committing their petition, must arise out of prejudice in his colleague against the

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general object, or he surely never would have resorted to such pitiful, and he might say, mean, virulent remarks. [Mr. T. was here called to order.] This was certainly a "new-fangled doctrine." But the reason why they could not write was because of the degraded state of their minds for want of education; many of them, perhaps, in their youth were in slavery.

The gentleman from Georgia had objected to the reference because the petition contained a system of facts which *he said* was not true? He (Mr. T.) believed they were true, and thus the dispute was in issue. How was this to be ascertained but by inquiry? If the State of Georgia should prove themselves innocent of that black stain, it would be to their honor. But no, said the gentlemen, "We will not have it examined into, because it will make us out to be as *black* as the petitioners themselves!"

Mr. EDMOND observed that the gentleman from South Carolina had called for the yeas and nays for a particular purpose, to wit, that it should be seen how few voted for this intermeddling with the property of the people in the Southern States. Mr. E. said he should vote for the reference, and as that opinion would be attached to his conduct, his reasons ought to accompany his vote. He should be as far from wishing to affect the property of the citizens as any gentleman, much less should he wish to affect the Constitution. This appeared to him to be a very respectful petition; it mattered not whether the people were black or white; the petition only was to be regarded, and not the color of the persons, who, representing their grievances, asked for such relief as the Constitution could afford them. Surely then, every measure ought to be adopted to alleviate their sufferings. Was it consistent that the House, instead of a reasonable and patient attention, should come forward and treat this complaint with an inattention which passion only could dictate? Was contempt the way to recommend attachment to the Government? This ferment and scorn could not be necessary, but he was sure it was highly improper and inconsistent.

Mr. GALLATIN said that in his opinion there were many parts of the petition exceptionable, but not being so much acquainted with it as might be necessary to form a decision, he could not say whether or not it was in the power of the House to legislate on it. However, seeing this much in the situation with other petitions, he felt disposed, and should vote for its reference. If it should appear improper for Congress to legislate on it, then the committee would so report. He said he was not satisfied that there was no grievance to which the House could apply a remedy; he thought there was such a part. He remembered a petition from Delaware once on one of the complaints, that of kidnapping free negroes; therefore, he conceived it was truth, and could be no insult to the States of Delaware and Maryland to mention it. If so, surely an effectual remedy ought to be applied. In the former State he believed they had made the punishment death, and yet the evil was not

prevented, if the complaints of the petitioners were true.

Mr. WALN then withdrew his former motion, and moved "that so much of the petition as related to the slave trade carried on from any part of the United States to any foreign place or country; and so much of the said petition as respected fugitives from justice, or escaped from their masters, be referred to the committee appointed on the 12th day of December last on the subject of the slave trade."

Mr. RUTLEDGE appealed to the Chair to know whether the motion was in order.

Mr. SPEAKER said, perhaps that was the only deliberative body in the world where a motion, having been made, seconded, and debated, could be withdrawn by either the mover or seconder. But it had been a practice in that House so to do, and there was no rule against it. The motion was therefore perfectly agreeable to order.

Mr. RUTLEDGE then moved, an adjournment, which was carried—yeas 47, nays 35.

FRIDAY, January 3.

BENJAMIN HUGER, from South Carolina, appeared, was qualified, and took his seat.

PETITION OF FREE BLACKS.

The House resumed the unfinished business of yesterday, on the resolution for referring certain parts of the petition of Absalom Jones and others, when.

Mr. RUTLEDGE rose to explain his reasons for moving the adjournment yesterday, as not having arisen from a desire of protracting the debate, but because he conceived the Chair misunderstood him on the point of order. When he submitted the question of order to the Chair, it appeared from the decision to be the Speaker's opinion that the question was, whether a member had a right to withdraw a motion in that situation or not. He knew that right to exist, but he doubted of the competency of the House to refer parts of a petition, and not the whole. In his opinion it ought not to be referred, or, if so, the whole ought to be referred generally. He mentioned a petition which was last session presented from Northampton county, praying the repeal of the alien and sedition laws, but in their general zeal in the pursuance of those objects severally, other laws were found fault with, particularly those relating to measures of defence. These were thought to be improper for a reference; on which a motion was made to refer a part, but it was then thought the petition could not be divided. He submitted to the gentleman from Pennsylvania a very easy mode of acquiring the object, which was by withdrawing the petition and advising the petitioners to present one conformable to the decision, and within the Constitutional power of the House. Gentlemen were mistaken in saying that petitions of this kind came annually. The session before last the subject was referred to a committee, who made a suitable report upon it, and in order to prevent the continual debate it was resolved to be a proper object of Ju-

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dicial, and not of Legislative cognizance. This brought the matter to such an understanding that he hoped he would have heard no more of it. It appeared to have had the good effect of preventing any application during the sitting of last session.

The SPEAKER said the question of order, as now explained by the member from South Carolina, was not understood by the Chair. From all the examination and the fruits of inquiry which the Chair had since acquired, it appeared not to be unusual to refer parts of a subject, for parts of the President's Speech had been referred; also, parts of petitions had frequently been referred; on which account the opinion of the Chair at present, unless an appeal should be made to the House, was, that the motion of the gentleman from Pennsylvania was perfectly in order.

Mr. WALN said it would have been very agreeable to him that the question should have been taken on the motion first made to the House; but, on hearing the warmth with which it was contested, and willing to remove the jealousy of several gentlemen in the House, he thought it best to alter the motion to their wishes.

It had been suggested that to withdraw the petition for its modification, would be an easy way to acquire the object. He thought it entirely unnecessary to withdraw it in this stage of business. Although he could have wished the words objected to had never been inserted, yet he was not prepared to say that the petitioners had no right to use them. It appeared that these people's sentiments accorded with those of the gentlemen who opposed the reference. They wished to obtain a removal of this great evil when proper: those gentlemen called it an evil which they could wish to get rid of, but they think it cannot be done. Mr. W. said he should not have objected to a resolution importing that it would be improper to legislate on the subject of slavery, but so far as relates to the bad traffic, and the practice of kidnapping, they ought to be examined by a committee. On these accounts he was not authorized, nor was he inclined to withdraw the petition.

He was in hopes the gentleman from South Carolina would not have desisted from his motion for calling the yeas and nays; that gentleman wished the House to show the world that this petition was so irritating and alarming as to merit universal contempt and abhorrence. He believed this gentleman was mistaken as to the small number he supposed would vote for its commitment, and therefore wished he would renew the motion on the question as modified.

Mr. GOODE then observed that as a public discussion had taken place upon this subject—one from which he thought Congress precluded by the Constitution, and one which materially affected the interest and perhaps the safety of a great portion of the United States, and particularly of his constituents, he thought it his duty not only to give his negative in the usual manner, but to call for the pointed disapprobation of the House, and proposed to amend the resolution by adding the following words:

"And that the parts of the said petition which invite Congress to legislate upon subjects from which the General Government is precluded by the Constitution, have a tendency to create disquiet and jealousy, and ought therefore to receive the pointed disapprobation of this House."

Mr. THATCHER said it was the first time that he had ever known any petition or part of a petition receive the "pointed disapprobation of the House" by a resolution, even though the object of it was not within the power of the House. Several petitions had been received upon which the House had no power. He referred to the petition of John Churchman, in December 1791, praying the patronage of Government to facilitate his discovery of the longitude, by enabling him to undertake a voyage to Baffin's Bay. It was reported that great inconvenience operated to prevent the grant prayed for, and no money was allowed, yet no member moved a censure upon the petitioner. Was it a desirable object to do away a great evil? It was professed to be the wish of several gentlemen to eradicate it. No gentleman in the House but appeared desirous of embracing it with all his heart. These people only wished the evil destroyed, but did not point out the form. He was willing, for the sake of argument, to admit that slavery did exist and was sanctioned by the laws and Constitution of the United States; he did not believe the fact, but as some other gentlemen did, he would admit it for the present. Surely it would be desirable that this great evil should be destroyed, if it could be done without injury, nay, with advantage, to the possessors. Did the petition go any farther than this? It did not. The second person in the Government of the United States had devised a means to procure this object, as also had a certain learned professor. If it was therefore the desire, as avowed, of those gentlemen, and an equitable means had been devised to acquire it, would the reference of a petition which made that request be improper, or would it be impolitic in gentlemen to examine these plans, and if eligible bring about their execution? Certainly not. Even if a certain sum of money was wanting he did not believe the House would refuse to appropriate it. Who would not withhold a few dollars from his purse to facilitate it? Then, while such are the propositions, a petition in behalf of its accomplishment ought to be heard; if it is not, it must fix a national indignity and stigma which ages of good actions could never wipe away.

Gentlemen supposed the friends of the reference were got to such a high degree of enthusiasm as to destroy the very essence of philanthropy. He professed himself to be no friend to some of the doctrines of the French, but there were others he much admired. It was an admirable attempt in them, and well executed, to liberate their slaves. So far we ought not to be behindhand with their philanthropic conduct. If slavery is an evil the French have wiped away this evil. He submitted to gentlemen whether it could not be fully procured with very little injury to the owners; he begged them to review the several plans which had been proposed, and act upon them if attainable.

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Mr. T. said he should be much grieved if any gentleman in the House should advocate the motion of *pointed disapprobation* towards men who respectfully complained and petitioned the House. He should think it a plain contradiction to tell them that they had professed it their wish to destroy slavery; it would be a plain demonstration that they hugged slavery as slavery, and loved it for its very odiousness.

He was sorry to hear such harsh reflections insinuated against a very respectable body of men who were declared to be, if not the ostensible, yet the actual authors of these "discontents." From all his acquaintance with that body he had never perceived any conduct in them to promote anarchy or disturbance; on the contrary, he had often observed that wherever there was a humane or benevolent institution, the Quakers were at the bottom of it. He thought, therefore, that they little deserved the odium which had been lavished on them.

Mr. DANA was not of the opinion of a number of gentlemen, that the House ought to express its indignation against these petitions. The indignation of that House ought to be limited to certain objects; it might be expressed against an offending nation, but he much doubted whether it became it to express that high sensation against any individuals. He thought no circumstance could occur which called for such condescension, and therefore he could not approve of words so strongly expressed upon an occasion comparatively so trivial. If the gentleman from Virginia would so convey his ideas as to express the impropriety of those subjects for the consideration of this House, he was willing to agree with him.

Mr. RUTLEDGE thought it a little extraordinary that when gentlemen from some parts of the Union were positively assured that very serious, nay, dreadful effects, must be the inevitable consequence of their discussions on this subject, they still would persist. He used strong words, he said, because no others would be appropriate. Gentlemen recommended the subject to be calmly argued.—Would gentlemen feel calm if measures were taken to destroy most of their property? Would calmness be consistent if entering wedges were prepared to ruin the property of whole estates? If ever it was justifiable to be warm on any subject in the House, it surely was on an occasion like the present, when imminent danger was in view. Yes, we deem this as an entering wedge to an inevitable loss of our property, if persisted in. It appeared by the gentleman's arguments that he had just been reading the opinions of his brother philosopher, Brissot.

Three emissaries from St. Domingo appeared in the hall of the Convention, demanding the emancipation of their species from slavery. The Convention were told it would operate as an entering wedge that would go to the destruction of property, and the loss of one of the finest islands in the world; that it would be murderous in the extreme; that it would open scenes which had never been practised since the destruction of Carthage; that a whole rich country would be buried

in blood; that thousands would instantly be reduced to abject penury; that the first towns in that fine island would be reduced to a heap of ashes. But those gentlemen said no, it cannot be, all our desires originate in philanthropy—we wish to do good! But sir, we have lived to see these dreadful scenes. These horrid effects have succeeded what was conceived once to be trifling. Most important consequences may be the result, although gentlemen little apprehend it. But we know the situation of things there, although they do not, and knowing we deprecate it. There have been emissaries amongst us in the Southern States; they have begun their war upon us; an actual organization has commenced; we have had them meeting in their club rooms, and debating on that subject, and determinations have been made. It might be wrong in me to mention these things, because many of those people can read and write, and will be informed of what I am now saying, which they think I did not know, but knowing, I am determined to make use of.

Sir, I do believe that persons have been sent from France to feel the pulse of this country, to know whether these are the proper engines to make use of: these people have been talked to; they have been tampered with, and this is going on. They now will see that the argument has been agitated in the Legislature; that the subject of emancipation has been discussed. Is not this extremely wrong, when gentlemen are told how much it puts our property at hazard. Although these people are unable to do any harm, yet the work will be done by gentlemen in this House, *they* must be answerable for the mischief.

Before I had the honor of a seat in this House, one question which was agitated by the people was, how do the General Legislature regard this species of property? I said, our brethren in the Northern States are willing to leave this business entirely to us who possess it—they will not intermeddle. I did hope that they never would take the lead in any arguments of this dangerous tendency. But, as gentlemen have gone into this business, I find I am compelled to use arguments which otherwise ought not to be mentioned.

I recollect that gentlemen in France used arguments like the gentleman from Massachusetts: "We can indemnify these proprietors." But how did they do it, or how can it be done?—Not at all. Farther, we were told these things would take place, we need not be alarmed; it was inevitable; that it was reasonable, and unavoidable. Sir, it never will take place. There is one alternative which will save us from it, but that alternative I deprecate very much; that is, that we are able to take care of ourselves, and if driven to it, we will take care of ourselves.

The gentleman talked much about longitude; it appears to me when he brought up that petition as a precedent he was very much out of his latitude. [A laugh.] That circumstance related to a grant of money which it was thought prudent not to make. Did that go to a national right? He thought the gentleman was rather too witty on a subject so solemn as this must appear to the world.

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Mr JONES had hoped that the decision of Congress when sitting at New York would have put a final stop to any future applications, and the councils of the United States would have been troubled no farther with them. It was justly and wisely proved that it was a difficulty unfit for Congress to attempt, on account of the extremely different local circumstances and species of property possessed by the Northern and Southern members, who were all met in one convention. However, he must do justice to the candor of some gentlemen from the North, who had vindicated their right to this property. Mr. J. did not think there was any more probability of discovering an eligible and just mode of acquiring the object of *emancipation*, than there was in the case referred by the gentleman to Mr. Churchman's discovery of *longitude*. All researches into these attempts were illusory, and both alike impracticable at this time, if ever they would be. However, he was certain that the honorable gentleman's manner of treating the subject would give rise to a just jealousy in those parts of the United States whose property consisted only in slaves. As to the State he represented, as he before said, a very heavy penalty was the fine on each slave imported, and killing, maiming, or ill treating them was punished severely by the whites. He could not think but the arguments of some gentleman must originate from improper motives.

He should vote for the motion of the gentleman from Virginia, (Mr. GOODE.) It was time to say what the House could or could not legislate upon; what it could not, ought to be marked with disapprobation. He should vote for the amendment, but when the question was taken on the general subject of reference he should vote against it. This he thought the most effectual way to show a just disapprobation.

Mr. GOODE then amended his motion, so as to read instead of "ought to receive the pointed disapprobation of this House," "ought to receive the disapprobation of this House."

Mr. EDMOND could not conceive any danger from committing this petition, whatever alarms some gentlemen had apprehended. But as gentlemen apprehended so much danger from committing certain parts of the petition, he would be willing to quiet these alarms, and do everything reasonable by expressing an idea that Congress would not legislate upon what belonged not to them. The amendment at first proposed, he professed himself much opposed to, upon the ground that the House were about to express a pointed disapprobation towards the petitioners, which he conceived wrong, because no censure could be due where a petition was respectfully addressed. But as now modified he had no objection to adopt the amendment; not that he conceived it important, but because it tended to quiet the minds of some gentlemen in the House.

Mr. WALN again said, that it was not his intention to advocate the emancipation of slaves, but only to ameliorate their state. He therefore would cheerfully consent to the amendment as amended.

Consent being given by the mover to incorporate

the amendment with the original resolution, it was now all before the House in the form of one resolution.

Mr. THATCHER said, as an abstract proposition, he should have no objection; he thought the House ought to give no countenance to anything that it could not legislate on by the Constitution; but as he did not believe the petition contained any such proposition, he must adhere to his former sentiments, and could not consent to the incorporation of the words. As amended, he disliked it much less than before, but he did not like it as connected with the first motion.

Mr. J. BROWN asked whether it was in order for a gentleman to speak five or six times.

Mr. THATCHER said he had spoken but once on this question. The gentleman from Rhode Island need not be afraid, for he was not now going to say much about slavery, which was the nearest to his heart. Mr. T. was fully of the opinion that the House had a right to take up the subject, and give it a full, free, and deliberate discussion, but this did not appear to be the general opinion. As he was opposed to the motion, as amended, he was willing his name should appear against it, even though no other gentleman should think fit to vote with him.

Mr. GALLATIN conceived that there certainly were parts of the petition over which that House had no power, for though the petitioners did not pray for emancipation to be completed immediately, yet they anticipated that it would some time be done, and their prayer included a wish that the House would take a preparatory step. As to the amendment, although he did not like the wording of it altogether, he had no objection to the principle, and therefore should vote for it; for he thought it right to say that it was improper for the House to legislate on the subject. What was not specifically acknowledged by the Constitution, in his opinion, carried with it a doubt upon which the Legislature ought not to enter.

Mr. THATCHER called for a division of the question.

Mr. NICHOLAS, on this, expressed some embarrassment as to giving his vote, on which he moved to strike out the latter part. The same appeared to pervade the minds of several gentlemen.

Mr. WALN, therefore, to relieve the House from the situation, withdrew his acquiescence to the amendment, so as to leave the questions distinct. The yeas and nays had been several times moved during the embarrassed state of the House, but were only taken once, to wit, on the amendment to the former proposition:

"And that the parts of the said petition which invite Congress to legislate upon subjects from which the General Government is precluded by the Constitution, have a tendency to create disquiet and jealousy, and ought therefore to receive no encouragement or countenance from this House."

The question was taken, that the House do agree to the same, and resolved in the affirmative—yeas 85, nays 1, as follows:

YEAS—Willis Alston, George Baer, Theodorus Bailey, Bailey Bartlett, James A. Bayard, John Bird, Pha-

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Duty on Spirits, Stamps, &c.

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nel Bishop, Jonathan Brace, John Brown, Robert Brown, Christopher G. Champlin, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, Samuel W. Dana, John Davenport, Franklin Davenport, Thomas T. Davis, John Dawson, John Dennis, George Dent, William Edmond, Joseph Eggleston, Lucas El-mendorf, Thomas Evans, Abiel Foster, Dwight Foster, John Fowler, Jonathan Freeman, Albert Gallatin, Henry Glen, Samuel Goode, Chauncey Goodrich, Elizur Goodrich, William Gordon, Edwin Gray, Andrew Gregg, Roger Griswold, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Joseph Heister, Archibald Henderson, William H. Hill, David Holmes, Benjamin Huger, James H. Inlay, George Jackson, James Jones, Aaron Kitchell, Henry Lee, Nathaniel Macon, John Marshall, Lewis R. Morris, Anthony New, John Nicholas, Joseph H. Nicholson, Abraham Nott, Harrison G. Otis, Robert Page, Josiah Parker, Jonas Platt, Leven Powell, John Randolph, John Reed, John Rutledge, junior, Samuel Sewall, William Shepard, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, John Chew Thomas, Richard Thomas, John Thompson, Abram Trigg, Philip Van Cortlandt, Peleg Wadsworth, Robert Waln, Robert Williams, Lemuel Williams, and Henry Woods.

NAY—George Thatcher.

And then the main question, to agree to the said motion, as amended, being taken, it was resolved in the affirmative.

Mr. HARRISON, from the select committee, reported a bill to reform the Superior Courts of the Territory of the United States Northwest of the river Ohio, which was twice read and committed.

MONDAY, January 6.

Mr. D. FOSTER reported a bill from the Committee of Claims, for the relief of John Vaughan, which was read a first and second time, and referred to a Committee of the whole House for to-morrow.

PEACE WITH THE INDIAN TRIBES.

The House took up the report of the Committee of the Whole on the bill for preserving peace with the Indian tribes, which was agreed to, and ordered to be engrossed for the third reading to-morrow.

The continuance of the bill is limited to the 2d of March 1802, which was stated by Mr. CLAI-BORNE to be in consequence of the expiring of some other bill or bills at that period, relating to the same subject, so that one general bill might then be introduced.

COURTS IN OHIO.

The bill to reform the Superior Courts in the Territory of the United States Northwest of the Ohio, was called up, when Mr. DAVIS stated some reasons for wishing its postponement for a week, which he moved. This being agreed to, Mr. D. moved as follows:

“That a committee be appointed to prepare and bring in a bill to establish a Circuit Court in the States of Tennessee and Kentucky, and the Territory Northwest of the river Ohio.”

Mr. GALLATIN then moved the reference of that resolution to the committee appointed some time since to report a mode of reform for the Judiciary Courts of the United States.

Mr. DAVIS opposed this motion, but it was agreed to.

REMISSION OF PENALTIES.

The resolution reported by the Committee of Revisal, &c., was taken up, and agreed to, as follows:

Resolved, That a committee be appointed to prepare and bring in a bill to repeal so much of the act passed March 3d, 1797, “to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned,” as limits its continuance to the end of the present session of Congress.

Ordered, That the same committee do prepare the same.

DUTY ON SPIRITS, STAMPS, &c.

Mr HARPER, from the Committee of Ways and Means, reported the following resolution.

“That the Committee of Ways and Means have leave to bring in a bill to consolidate into one act and amend the several acts, for laying duties on spirits distilled in the United States, and on stills, and for collecting the same.”

Mr. H. said the subject was attended to, at the last session, and a bill was prepared, but owing to the shortness of the session was not passed. A consolidation of the several laws on this subject must certainly appear desirable. The amendments proposed at present were of two kinds; one for increasing the number of supervisors, which now was only one for each State; and in order to accommodate the business, superintendents were appointed; thus a circuitous and troublesome communication was held up from the collectors to the superintendents, from them to the supervisors, and from thence to the Treasury. It was proposed to abolish superintendentships, and increase supervisorships. Again, the irregular mode of compensation to the officers employed, was found a grievance. At present, they received a per centage on their receipts. This, in some, amounted to too high a salary, while in others, although the per centage was increased, it was too low. It was thought all officers with the same trust ought to receive about the same salary. Other amendments might probably be suggested when the business came before the House.

Mr. HARPER said he was also instructed to move the following:

Resolved, That it is expedient to amend an act for laying duties on stamped vellum, parchment, and paper, and to abolish the offices heretofore established for stamping vellum, parchment, and paper, in the several districts of the United States, and to establish at the seat of Government one general office for that purpose.

At the time the act was passed, Mr. H. observed, it was thought most convenient, for expedition, to distribute those offices into different parts of the United States. This most probably had been accomplished, and it was now thought necessary to bring all the business immediately under the superintendence of the Government.

The resolutions were referred to a Committee of the whole House, and made the order for Wednesday.

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Reduction of the Army.

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UNIFORM BANKRUPTCY.

Mr. BAYARD, from the committee appointed, reported a bill to establish an uniform system of bankruptcy throughout the United States; which was twice read and referred to a Committee of the Whole on Monday next.

TUESDAY, January 7.

JAMES SHEAFE, of New Hampshire, appeared, produced his credentials, was qualified, and took his seat in the House.

The bill for the relief of John Vaughan was taken up and ordered to a third reading, which it received next day and passed.

The bill for the preservation of peace with the Indian tribes was read a third time and passed.

The SPEAKER laid before the House a letter and report from the Secretary of War, exhibiting the expenses of the National Armory at Springfield, Massachusetts; which were read, and ordered to lie on the table.

REDUCTION OF THE ARMY.

Mr. NICHOLAS called up the resolution which he laid on the table on Wednesday last, as follows:

Resolved, That so much of the act passed the 16th July, 1798, entitled "An act to augment the Army of the United States, and for other purposes," as authorizes the President of the United States to raise twelve additional regiments of infantry, and six troops of light dragoons, and to appoint two Major Generals, an Inspector General, three Brigadier Generals, and an Adjutant General; and so much of the act passed the 3d March, 1799, entitled "An act for the better organizing of the troops of the United States, and for other purposes," as authorizes the appointment of a Commander of the Army, and a Quartermaster General, ought to be repealed.

Mr. NICHOLAS said he was led to make this proposition from a strong sense of his duty; that while speaking on the subject, he hoped to treat it in such a manner as to give no occasion for a revival of those passions which had been too predominant in times past, and that if his arguments met their assent, they would find no resistance from resentment. Sir, he continued, I am led to this measure from a sense of its necessity, in our present situation. I think the affairs of this country require a strict economy in their administration, perhaps at this period more than at any former, and that with this principle, our foreign consequence and domestic happiness is most intimately connected.

Upon the information of the Secretary of the Treasury, we are told there is a new appropriation of 8,162,923 dollars wanted; this, gentlemen will observe, is independent of the permanent appropriations of Government. On examining the subject, as well as I have been able, I find the comparison of the expenditures with the revenue will stand as follows:

New appropriations to be made.

For the civil list	\$562,275	95
For grants and annuities	953	33
For the Mint	13,300	00

For foreign intercourse, &c.	\$ 92,000	00
For expenses of treaties	244,000	00
For expenses of valuation of lands, dwelling houses &c.	215,000	0
For military department	4,067,000	0
For military pensions	93,000	00
For Navy Department (exclusive of 74's)	2,482,953	99
For fabrication of cannon, arms, &c.	260,000	00
For light-houses, &c.	98,240	03
For miscellaneous claims	34,000	00
For 74-gun ships, according to the Secretary of the Navy.	600,000	00

8,762,923 30

Appropriations already made.

For foreign intercourse	40,000	00
Annuities to Algiers and Indians	60,000	00
For interest on public debt	3,020,000	00
For do. domestic loans	616,000	00
For do. Dutch debt	511,121	00

4,247,121 00

For reimbursement of Public Debt.

Instalment of Dutch debt	400,000	00
Do. Bank do.	200,000	00
Unexpended appropriation of last year for 74-gun ships	650,000	00

Total 14,260,044 30

Revenue.

Imports, excise, &c., as in 1799	7,350,000
Land tax	1,900,000
	9,250,000 00

Deficiency 5,010,044, 30

Deficiencies in the land tax and unexpended appropriations of last year will equal any saving in military appropriations.

The sum of 5,000,000 dollars is the least which we shall be expected to provide; this we understand is to be done by loan, and there is no expectation of getting it at a lower interest than 8 per cent. As we are to be embarked in a system of this kind, and it may be necessary to pursue it for years, it will be proper to consider how far the present revenues of the United States afford a fund for future credit, or, in other words, what surplus there will be after paying the ordinary expenses of Government as they will be in time of profound peace. On such a surplus, or if none, on additional taxes for payment of interest, the power of borrowing can alone depend. To ascertain whether any such surplus will exist, I will state the expenditures of the next year as they will be if every war expense ceases with the present year:

Ordinary Expenses of 1801.

For interest on domestic debt, including two per cent.	\$3,020,000
Ditto on deferred do.	1,116,000
	4,136,000

For interest on domestic loans, old loans as in 1799	216,000
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On ship subscriptions - - -	\$ 36,000
On 5,000,000 borrowed in 1799 - -	400,000
On do. to be borrowed in 1800 - -	400,000
	<hr/>
	1,052,000
For interest on Dutch debt - - -	<hr/>
	500,000
Civil list - - - - -	<hr/>
	560,000
Military pensions - - - - -	93,000
Light-houses, annuities, and miscellaneous expenses - - - - -	<hr/>
	133,000
Foreign intercourse - - - - -	120,000
Algiers, and Indian annuities - - -	120,000
	<hr/>
	1,026,000
Permanent Army - - - - -	1,500,000
	<hr/>
	8,214,000
Revenue - - - - -	9,250,000
	<hr/>
	\$1,036,000

On this balance will be chargeable expenses of navy, fortifications, arms, foundries, treaties, &c., which will no doubt exhaust it. An instalment of the Dutch debt will become due next year, which is not taken into account, because as principal money it might not be properly considered as a necessary expense. On this view it would seem that you have no fund for borrowing in the present revenues of the United States, after the present year; and that if we confirm a system of expense which will require loans hereafter, we must accompany it with taxes, or submit to the disgraceful and ruinous system of borrowing money to pay the interest of our debts.

The army which is comprehended in that resolution, non-commissioned officers and privates, amounts to 9,000 men: the army retained will then be 5,000 men, non-commissioned officers and privates. In the course of the last two years it will be observed that great additions were made to the permanent Army of the United States by a regiment of artillery and a number of men being annexed to each company, by which the number is made to amount to 5,000.

Sir, the finances of this country would be in an alarming state, if all the present expenses were necessary, but my opinion is, that they are not necessary, for that this additional army is in no wise useful. I cannot conceive for what they are wanted. The idea of invasion, the only ground upon which their necessity could be founded, is quite out of the question—an event of that sort in the present state of Europe, is absolutely impossible; whatever possible changes may take place, on considering the difficulties and inducements, it seems to me morally impossible. If there is not so great a certainty as I believe there is, the improbability of the event is so great that we cannot be justified in keeping up so expensive a preparation for it. If that improbable contingency should ever be brought about, we have a competent defence in the patriotism of the people. The self-interest of all the people of the United States, if no other principle should call them out, would be

an infallible defence against invasion from an enemy.

But I suppose very little will be said about the usefulness of the present army, but we shall hear more of the effects which a measure of this kind would have on the state of our negotiation in Europe. I suppose, therefore, that the question will turn on the propriety of dismissing this army while our Commissioners are treating, and therefore this view of the subject may merit a few remarks.

The importance of this army in the negotiation seems to me to be entirely dependent on its importance in the kind of warfare we may expect to carry on with France. If it is not important in that, I cannot conceive how it is to influence the negotiation which is to end it. It would be an extraordinary effect that our army should produce a termination of the war when it cannot affect it in its progress. I have before stated my opinion on the danger of invasion, and I would say more, but that the public understanding has, I believe, decided in the same way; and, if not in repelling invasion, I should be glad to learn how the army can resist the views of France, so as to induce her to abandon them.

It is desirable, I should imagine, that at entering on a negotiation our country should be so situated as to be able to make a firm and obstinate stand against unjust demands. If this is a desirable situation, I ask gentlemen to say whether this army does not lessen, instead of increasing our importance, with that country to which we go to negotiate, when it is apparent to the world that for its support we borrow money of more than one half the amount of the revenue, and pay interest on that loan at an enormous rate. This being known, will it not operate as a strong ground for suspicion that you are forced to the negotiation from pecuniary considerations; that your present state of exertion is greater than you can bear for any length of time, and thus lessen your respectability with that nation? While it may hurry you to submit to terms less advantageous than could be wished, it may make the terms proposed for your acceptance harder than they would otherwise have been.

How can this measure ever affect the negotiation? If such a consequence could be supposed, I ask how it can ever be in the power of Government to give up any measure, let it be ever so mischievous, without running the same risk? If this is to be held up as a *bugbear*, how is it possible for a Government to change its measures? Apprehensions of this sort, if they are not to be liable to the scrutiny of the mind, will put it out of your power to make any change, although it would add to your coercive power. In the present instance, you are to be deterred from reconsidering your arrangements for an army, by an apprehension of an unfavorable effect on your enemy; although it must be confessed, that of all our preparations and measures this has been the least operative and promises to be so in future. If you have the power of further exertion, ought you not to make it in the war which will give you

most power over France, and may she not count that in retrenching useless expenses you acquire additional strength?

I do not hesitate to say, if preference is due to one, it is to our naval preparations of defence. Sir, if you part with one which has never proved useful, will you not be better enabled to keep up the other, which is certainly more favorable to your interest and local situation?

Another objection which will most likely be made, but which is in effect the same, is, that those measures having been established, taken to resist any attack that might be made from *France*, and no material change having happened since, it will be considered as a proof that the spirit which dictated them is gone. What I have said before I consider as a full answer to this. In retaining those measures which alone have had effect, we give the best proof of our determination to persevere; in dismissing those measures which have only been burdensome to ourselves, we certainly increase our ability to do so. Thinking as I do, about the usefulness of this army in a contest with *France*, I conceive this the most proper time for disbanding it. I would enter the negotiation with an armor which would last more than a day; I would go to it so as to satisfy the country with whom we treat that we will not be obliged to abandon the ground which justice has pointed out. If its usefulness is not such as it ought to be maintained throughout the contest with *France*, in my opinion this is the best time which can offer for disbanding the army. In case the negotiation is to fail, the increase of passion and alarm would deprive us of the power of acting up to the sound dictates of understanding, and we should certainly continue under the pressure, though useless.

If there was a possibility of my proposition hindering the negotiation with *France*, or in the least retarding it, I am sure that I should be the last in the House to press it; there is nothing I wish more than a complete accommodation, and nothing for which I would bear more. I propose a correction of what I call a misdirected zeal; by correcting which, I conceive the country will acquire new energy, the power of Government be placed on a firmer and more substantial footing. Under the firm impression of these ideas, I have done what I considered my duty, and leave it to the consideration of the House whether the measure would or would not be prudent and practicable.

Mr. MARSHALL said if it was true that America, commencing her negotiation with her present military force, would appear in the armor which she could only wear for a day, the situation of our country was lamentable indeed. If our debility was really such, that the troops sought to be disbanded could not be kept up but for a day, or for a very short period, our situation was truly desperate. No cheaper mode of self-defence had been or could be devised, and it amounted to a declaration that we were unable to defend ourselves. He thought differently from the honorable gentleman who moved the resolution. He thought America could maintain, if it should be necessary, a much larger force, for a much longer time, than was

contemplated with respect to the troops to which the resolution under consideration related.

It was also to be observed that the honorable gentleman had predicated all his arguments on the idea, that the troops must be immediately disbanded, or that the original law, unmodified, must have its full effect; that no middle ground might be taken. He was of a very different opinion; he thought middle ground might be taken, and that the law might be modified, so as to diminish the estimated expense, without dismissing the troops already in actual service.

The resolution proposed, he said, occupied such broad ground, as necessarily to unite against it a considerable variety of opinions respecting the future disposition of the army. Not only those who thought the original law ought to have its full course and effect, but those also who thought it ought to receive certain modifications, and even those who thought that in the event of the failure of the present negotiation, the army ought, under certain circumstances, to be disbanded, but that this was not the time for disbanding it, must unite against the motion now under consideration. It could only be supported by those who, like the mover of the resolution, thought that in the present moment, uninformed as we were concerning all those circumstances which should govern our decision, we ought to retrace the steps we had taken, and very materially to change the ground on which we found ourselves placed. This being the opinion on which alone it could be maintained, it became necessary to examine the arguments urged in support of this opinion.

It has been urged that the army ought to be disbanded because it was totally useless, because the United States were unable to bear the expense, and on some other suggestions, which should be considered in the course of the argument.

Its utility has been maintained on the impossibility of invading our country in the present state of things, on the difficulty of invading it at any time, and on the total indisposition to invasion, arising from the inadequacy of the object to the difficulty of attaining it.

But what assurance have gentlemen that invasion is now impracticable? The present state of Europe is totally unknown to us. The effects of the late decisive victories of *France* have not reached us. It is by no means certain that these victories may not have produced a negotiation with some of the continental Powers, which may liberate a considerable portion of her force, which she may send across the Atlantic. By the opening of the next campaign we shall be informed on this subject, and shall be able to act with proper knowledge of it—at present we are uninformed and are urged to act without the requisite knowledge.

On this point it was necessary to inquire into the relative situation of the two nations. All commercial and friendly intercourse between us was suspended. Whenever we met, the stronger party attacked and captured the weaker. The property of the captured was confiscated and their persons imprisoned. This was war in fact though not in form. We are, in fact, at war with *France*, though

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it is not declared in form. What security then is there that no disposition will exist to invade us? The unimportance of the object forms no such security.

Neither is there any security that there exists no disposition to invade us. On this subject he differed essentially from the honorable gentlemen who supported the resolution. He thought America of vast importance to France. Whatever might be the views of France, whether they were merely to humble her great rival or were still more extensive, it was impossible to consider the effect which a control over American affairs must have in promoting those views, without being satisfied on this subject. Independent of the effective force which might be used, the great advantage which the monopoly of our commerce would give in time of peace for the formation of a naval power, was of importance to France or England. The result of the two last wars between those two nations, in one of which the force of America was added to that of Britain, and in the other to that of France, evinces the importance of America, even at that time, in either scale. Unquestionably that importance cannot be diminished.

With respect to the difficulty of attaining the object, Mr. M. said that France could not be so much governed by the difficulty which might actually exist, as by the opinion she would previously entertain of that difficulty. Before the real difficulty could be ascertained, the invasion must take place. Of consequence, her opinion on this subject would regulate her conduct, and her opinion would depend on the measures which might be adopted, and the disposition which might be manifested by America. But it has been urged, not only that the army is useless, but that there is in the United States a positive inability to maintain it. To prove this our revenue and expenditure has been stated. Suppose this had been the language of '75? Suppose, at the commencement of our Revolution, a gentleman had risen on the floor of Congress, to compare our revenues with our expenses—what would have been the result of the calculation? Would not the same system of reasoning which the gentleman from Virginia has adopted, have proved that our resources were totally inadequate to the prosecution of the war? Yet it was prosecuted, and with success. If vast exertions were then made to acquire independence, will not the same exertions be now made to maintain it? The question now is, whether self-government and national liberty be worth the money which must be expended to preserve them.

The mover of the resolution, Mr. M. said, had urged, as his strongest reason for the measure, the saving of public money which it would produce. Any argument of which the object was economy, came home to the feelings of every member of the community, and came home to the feelings of every member of the House. Such arguments would, and ought to have great weight; but it should never be forgotten that true economy did not content itself with inquiring into the mere saving of the present moment; a true and wise economy would take an enlarged view of the subject, and determine,

on correct calculation, whether the consequence of a present saving might not be a much more considerable future expenditure. The reduction of the army would certainly diminish the expense of the present year; but if it should have any operation on the existing negotiation with France, the present saving it would produce would bear no proportion to the immense waste of blood, as well as treasure, which it might occasion us. To determine in what manner this measure might, and probably would, bear on the existing negotiation, it became indispensable to take into our view what had preceded the actual state of things between the United States and France. In doing this it could not be necessary to enumerate the various injuries our country had sustained. They rested in the memory of every American, and need not be recited. It must, however, be particularly observed, that while prayers for peace were returned for indignities of every sort, while America was humbly supplicating for peace, and that her complaints might be heard, France spurned her contemptuously and refused to enter on a discussion of differences, unless that discussion was preceded by a substantial surrender of the essential attributes of independence. America was at length goaded into resistance, and resolved on the system of defence, of which the army now sought to be disbanded forms a part. Immediately the tone of France was changed, and she consented to treat us as an independent nation. Her depredations indeed did not cease; she continued still to bring war upon us; but, although peace was not granted, the door to peace was opened.

What could have produced this change? Every member of the House is called upon to put this question to himself and to weigh it according to his best judgment. To supplicating America, even discussion was denied. America armed, and immediately a different language was used, and the rights of an independent nation were allowed her. What, he repeated, could have produced this change? Can any other motive be assigned, than the defensive system which America had adopted? If in the mind of any gentleman, any other motive did exist, he is called upon to assign that motive. If no other did exist, is it wise immediately to change the system which has alone been effectual? Is it not to be apprehended that this change may revive those sentiments which existed before that system was adopted?

This subject, he said, was also to be considered in another point of view, which had been foreseen by the mover of the resolution and declared to be intimately connected with that which had been already stated. It was this: the policy of this measure depends entirely on the state of things when the negotiation shall be determined.

Will gentleman say, that, under any state of things, the army ought to be disbanded? Will they say that if peace should be made with the continental Powers of Europe, and a French army should be crossing the Atlantic to invade our territory, that yet our military force ought to be diminished? He believed no gentleman would say so. He was certain the mover of the resolution

would not. Is it then wise to precipitate a measure, the policy of which depends entirely on an event which is not yet, but will soon be, ascertained?

In a few months the fate of the present negotiation will be decided. Should it terminate favorably, the army expires by the law which gave it being, and the additional expense to be incurred will be very inconsiderable. Should it fail, we shall then know the disposition of France and the situation of Europe. We shall be able to form a just estimate of the danger of invasion, and consequently to decide, with much better information than we now possess, on the question under discussion. If such a state of things should then exist as would justify disbanding the army, the loss produced by the delay of that measure would be very inconsiderable. If the then state of things should require even an augmentation of the existing force, the injury occasioned by our precipitation might be very considerable. We should certainly throw away all the expense incurred in recruiting men, all the discipline the present army had acquired, and be in a state as unprepared as if the expense for those objects had never been sustained. He concluded with observing that this was not the time for diminishing the force of the nation, and therefore he was opposed to the resolution.

MR. NICHOLAS.—As usual, I fear that this, as I consider it, wrong step, will never be got over. How can it, if there is strength in the gentleman's arguments? Where is the end of it? In vain do we seek for it! He supposes the necessity for that army will continue while depredations continue on our commerce; thus, France may continue her depredations, which are directed only towards a part where this army can have no effect, and consequently, though there will be no power to use it, the armament is never to have an end. He says on the moment of failure in the negotiation, an army may be crossing the ocean, and then we shall want these troops. Sir, this might occur at any period, and if we are never to disband our army, under apprehensions of that event, it will never be done, and our expense will be perpetual; but of all times the one fixed on by the gentleman is the most improbable, and if you are to be in perpetual alarm on this account, where will the argument lead? The expense is stated to be small, as the event will be soon known. We know not how short is the time or how long; we cannot limit it. France may continue, and might continue to plunder us on the ocean, and therefore to fix on her forbearance as the time, is but in other terms to be satisfied to bear the burden for years, without a prospect of its being useful.

The gentleman considers this armament to be the measure which extorted the overtures from France. But this is not so. It is a little extraordinary that he should have ascribed an effect to a measure that existed previous to the knowledge of that measure; for the propositions, and the avowed willingness on the part of the Directory to meet our complaints by an honorable adjustment, were made known to our Ministers in August, which was before the law of July, 1798, which created

the army we wish should be disbanded, could have reached that nation.

I could not understand one of the gentleman's arguments, when he spoke of the motive for invading this country by the different weight it would have in the scale of either of the contending Powers. Instead of this being a reason why she should make war upon us, it is a good reason, in my opinion, why she should wish for peace with us, to keep us out of the scale of her enemy. He surely could not think it an easy acquisition to France, from any attachment formed for that nation among the people of this country, so as to make it an easy conquest. I am sure he would not form such a degrading opinion of his countrymen. The general suggestion that we may be invaded will not operate the least in favor of retaining the troops, for to that we are always exposed. No time can be pointed out in which it would not be as practicable as at present, but many periods and circumstances in which it would be more so. If a conquest can be made of this country, and the difficulties of achieving it are not sufficient to prevent the attempt, I ask whether a time of peace would not comport more with the interests of the nation expected to attempt it? Their supply of arms and men, and having no enemy to encounter, would certainly render that the most proper time. The consequence, then, of those arguments would be that we must keep this army up and go on arming in all times, because we may be invaded. This continual alarm will be found so fatal to public happiness, that we shall at last be willing to yield ourselves up to any master who can promise us security.

But the gentleman seems to suppose that there is a middle ground upon which we can go, and that we might do something short of disbanding the army, by which expense can be saved. How does this proposition comport with the influence he conceives any change in our system will have on France, or with his fears of invasion? Is your army so numerous that you can bid defiance to France with half of it—for, in the idea of the gentleman, in case of a want of agreement, your negotiators are to return with an army at their heels!

In my opinion, the same arguments that go to the least retrenchment at the present time, go to the whole principle of the resolution, for, if we were to be invaded, it would not all be enough; we must have recourse to other means. If from motives of economy we ought to save part of the expense, and the saving of that part would leave us in nearly the same danger which saving the whole would, who can hesitate to decide which is the most expedient? I confess I have heard none of the arguments used by the gentleman that have convinced me of the impropriety of the resolution, but rather they have confirmed me in a sense of the necessity of it.

Considerable argument then took place on a motion of Mr. JONES to refer the resolution to a Committee of the whole House, which at last was agreed to; and the House adjourned.

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WEDNESDAY, January 8.

An engrossed bill for the relief of John Vaughan was read the third time, and passed.

Sundry petitions and remonstrances from a number of the inhabitants of Morris county, in the State of New Jersey, were presented to the House and read, praying a repeal of the alien and sedition laws passed at former sessions of Congress; and, also, of the law which authorizes the President to augment the Army; for certain reasons therein expressed.

Ordered. That so much of the said petitions as relates to a repeal of the laws authorizing the augmentation of the Army be referred to the Committee of the whole House to whom is committed the motion for a repeal of certain parts of the acts relative to the Army, passed the sixteenth of July, one thousand seven hundred and ninety-eight, and the third of March, one thousand seven hundred and ninety-nine.

Mr. GRISWOLD, from the Committee of Revisal and Unfinished Business, reported a bill to repeal part of an act, entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned;" which was read twice, and ordered to be committed to a Committee of the Whole House to-morrow.

A Message was received from the President of the United States, transmitting a report of the Director of the Mint. The Message and report were read, and ordered to lie on the table.

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The House then resolved itself into a Committee of the whole House on the motion depending yesterday, for a repeal of certain parts of the acts relative to the Army, passed the sixteenth of July, one thousand seven hundred and ninety-eight, and the third of March, one thousand seven hundred and ninety-nine—Mr. MORRIS in the Chair.

Mr. BAYARD rose and said, he felt much embarrassment in rising to speak in support of positions which had already been so ably and so eloquently maintained by the honorable gentleman from Virginia. He could not flatter himself with the expectation of throwing much light on a subject which had been illustrated by him. But the subject was of such magnitude and interest, that it was important to contemplate it in every point of view.

He was not surprised that such a resolution as the one under consideration, even at the present crisis, should have been brought forward by the honorable gentleman who moved it. He could perceive in it a connexion with a system which had long been pursued by a party in the United States—a system which had for its object the debilitation and degradation of the General Government. A knowledge of the party and a knowledge of their views prevented any astonishment at the present measure they proposed. This measure he did not regard as a single operation. It was part of a general plan, which, if it were successful, would soon be unfolded.

The conduct of France in relation to this country, had compelled the United States to adopt a system of defence. The nation had found that no reliance could be placed on the moderation or justice of the French Government. Their own energies were the only ground on which their independence could be maintained. They did not hesitate as to the alternative of defence or submission. Having resolved to resist the aggressions and pretensions of the French Government they found themselves forced into a state of hostility. The commercial intercourse with France was suspended, the treaty of alliance was abolished, a navy was created for the protection of trade, and an army ordered to be raised. Our ships of war were instructed to seize and destroy the armed ships of the French Republic, and a war, though deprecated, was expected without dread. The national sentiment coincided with the temper of the Government, and its measures were approved and applauded. The system which was adopted was connected in its parts, and the objection which went to one part applied with equal force to the whole. The naval hostilities authorized against France rendered an army necessary against invasion from Europe or the islands, which might reasonably be expected.

If gentlemen now said an army was not necessary, it must be because they thought the French Government was not hostile but friendly. If they thought that Government friendly, surely there could be no occasion for the navy. The same reason would induce us to revive the treaty with France and open the commercial intercourse.

Sir, said Mr. B. before we undertake to change the entire plan which we have pursued, and which certainly has been productive of salutary effects, gentlemen should well consider what condition of the country induced that plan, and whether that condition is altered; they should reflect upon the operation which the change might have upon our affairs abroad and on its probable effects at home. He should not enter into a recapitulation of the various complaints and recriminations which had occurred between the two countries. It was sufficient to observe that the Government of the United States, actuated by a love of peace and a motive of amity, early sent a Minister to France, to conciliate the differences which had arisen. This Minister was not simply rejected, but repelled with circumstances of marked disdain and contumely, designed, not as a personal, but as a national affront. The moderation of the Government and the forbearance of the people passed over in silence this gross violation of the respect and justice done to them.

Still, willing for peace and anxiously desirous to avoid engaging in the contentions of Europe, a new embassy was sent to France, composed of citizens the most illustrious for their talents and probity. We all know the fate of this embassy. The olive branch which was presented was disdainfully trampled under foot. Our Ministers were not received. A miserable pecuniary intrigue was set on foot, which unveiled the corruption and hypocrisy of the French administration, and remained a lasting monument of the disgraceful

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views and designs of that Government. When these rejected Ministers of Peace returned what was our situation? The American people perceived that their Government had sincerely and zealously endeavoured to preserve the relations of amity with France. They saw that peace could not be maintained without a surrender of their independence. The alternative was war or tribute. The people were then roused from their lethargy. The national pulse beat high, and from one end of the Union to the other the sentiment was uttered and reiterated, "millions for defence but not a cent for tribute." He trusted this was not the ephemeral spirit of a moment. He trusted that the American people, though slow to anger, would be found firm to their purpose. At this moment the temper of the country forced the Government to measures of defence. The Government, faithful to the interest and will of the people, assumed the attitude of resistance; they severed the connexion with France, and prepared to defend themselves on the ocean and on land. This state of things they had not chosen, but it had been imposed upon them.

They had been fully sensible of the burden and sufferings of war. But the election of peace no longer remained upon terms compatible with the independence of the country. This state of things gave birth to the measures of the last Congress; those measures had been adopted, not from choice but from necessity.

If the state of things justified the measures which were adopted in 1798, before gentlemen consented to abandon the system then taken up, they would certainly inquire whether anything had occurred which changed the situation of the country. To me, said Mr. B., the same views present themselves; nay, the causes of apprehension have increased. To the complaints which France had in 1798, we have added a course of hostilities since that time: we are now in actual war; we have everything to dread which the vengeance and power of the Great Nation can inflict. Have we anything to hope from their moderation and justice? To them we have already appealed in vain. A new effort to negotiate has been made, hostilities however continue, and the event of the mission is utterly uncertain. We have, then, the same reason to maintain the army which we had to raise it; consistency will oblige every gentleman to vote for its continuance who voted for its creation. He had no doubt that the people of the United States, perceiving the necessity of our situation, would cheerfully submit to the burden. A burden, great as it might be, not so heavy or calamitous as bondage to a foreign Power.

But, said Mr. B., some gentlemen affect to believe that in no event could the army be necessary. They conceive, in the first place, that an invasion of the country is impracticable by France; and, in the second, that if an invasion should happen, the patriotism of our citizens furnishes alone sufficient means of defence. He was not of opinion that invasion was impracticable. What rendered it impracticable? Did France want men? No nation was more populous; nor could any nation

furnish more soldiers in proportion to her population. Did she want ships? We were informed that she still possessed a considerable navy of her own, and, in addition, could dispose of the marine force of her august ally the King of Spain; the combined fleets were certainly competent to the end. Was the project too hazardous or chimerical? Look at the expedition to Egypt; the distance to the United States was greater, but the voyage once begun, all difficulties were surmounted. Did we rely on her friendship or moderation? On this subject we had lessons of our own, and they were confirmed by the invasion of Egypt. Egypt was a dependence on the Porte. The Porte, at the time of invasion, was the ally of France, and was her natural and ancient ally. France had not a complaint against the Turkish Government; and notwithstanding, in breach of the law of nations and in violation of every principle of justice, invaded the Turkish dominions. This invasion furnishes memorable proof of the darkness of her intrigues and the perfidy of her assurances. It was not till Bonaparte was landed in Egypt that the Turkish Government suspected the hostile designs of France; and, when in Egypt, you find the French General as good a Musselman as here he would be a Christian. Nothing could be expected from the moderation of a Government which had uniformly shown itself the most ambitious, the most rapacious, and the most unprincipled, of any that ever ruled.

But we are told that in case of invasion an army is not necessary, because we might rely on the patriotism of the nation. Sir, said Mr. B., I am not insensible to the melody of the word, but I must doubt of the efficacy of one thing. There was a time when everybody understood what was meant by patriotism; it indicated an attachment to our country. But a modern patriot was a character not so well understood. Patriotism has become a furious spirit of revolution; the ties of blood, the inspirations of nature, the principles of truth and honor, are consumed by the devouring flame. The *natale solum* had lost its charm. To be a patriot you must forget your country, abjure your religion, suppress the impulses of nature, and maintain the equality of vice and virtue. He knew there were a sect of patriots who attributed to themselves exclusive merit. Was it on these patriots the country was to rely in case of invasion? It was necessary to develop their principles before they could be entitled to confidence. Their object might be beyond his view, but their operations inspired distrust. We see, said he, every means employed to separate the Government and the people. Art, intrigue, and falsehood, are indiscriminately made use of to create an opinion that the friends of the Government aim at the establishment of monarchy. He did not suppose that those who gave currency to the idea believed in the fact. The evil was extensive and increasing. The attempts to establish the opinion to which he alluded were not confined to a few miserable editors, whose bread depended on defamation and calumny, but ambition and party had laid hold of the same instrument to accomplish their purposes. The opinion

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had been declared by men of high character; we had seen it in official addresses and official answers; and the ebullitions of conviviality were proof of the impression it had made. Sir, said Mr. B., I know the fact to be otherwise. The friends of the Government are devoted to the Constitution. They wish to maintain it on its just principles. They have resisted the insidious attempts to weaken and destroy it, made under the deceitful pretence of love of liberty and attachment to the rights of the people.

The design to establish monarchy, attributed to the friends of the Government, he considered as a most dangerous calumny. Unsupported as it was by any acts, or even the expression of opinion, yet there were many who were weak enough to believe it. He thought, in this country, a more fatal poison could not have been infused into the public mind. The body of the people were attached to a republican form of Government. He had no doubt that to maintain this form of Government they could sacrifice every other consideration. When they are brought to suppose that those who administer the Government aim at the establishment of monarchy, they will be ripe for insurrection, or ready to join an invading army.

He could not imagine that the delusion on this subject reached to an alarming extent. He believed a great majority of the people were attached to their Government, and had full confidence in its rectitude. But there were no doubt some who were weak and credulous enough to believe the slanders which the enemies of the Government had propagated. The patriotism of these few would not be shown in attachment to the country, but in a furious opposition to those whom they have been taught to think were enemies to liberty and equality.

Sir, said he, let the French come with their cap of liberty mounted on their standards, singing *ca ira*, planting liberty poles, and denouncing the Government as an aristocratical and British faction, and I fear you would see some patriots forgetting their country, and, under the ardent impression of their political fanaticism, ready to imbrue their hands in their brothers' blood. Revolution was not confined to politics—religion and morals were revolutionized. The sacred love of country, once ranked amongst the best principles of man's nature, was now shamefully sacrificed to the very sound of equality.

These sentiments were no declamation, they were drawn from what had actually happened. The example of Holland was before us. No nation had ever struggled with more fierceness and obstinacy to establish their independence; the people of no nation had been more celebrated for their patriotism. And yet, within the compass of a few years, we had seen that spirit yielding to a new passion, which had involved the country in slavery and wretchedness. For a few empty sounds they had bartered the independence of their country. The patriots united with the invaders, and, as soon as they were told that they were all free and equal, surrendered their Government and treasures to France. They are punished beyond the desert of

folly. An army of 24,000 plunderers is established in their bosom, and the vultures will not be satisfied while there is anything to devour. They have now the equality of slaves, and the liberty of singing the songs and playing with the baubles which France has given in exchange for the right of governing them with the bayonet.

Mr. B. said he would turn his eyes to a picture still more melancholy than that of Holland. He alluded to Switzerland. The people of those cantons were illustrious for their love of liberty and their devotion to their country. Liberty they had, and with it all the blessings which good government could bestow. They did not escape, however, the poison of the French mania. The storm of the Revolution reached them, and Switzerland has been effaced from the list of independent nations. Still brave, still attached to their country, yet seduced by the flattery and false promises of their invaders, instead of uniting in a common defence, they divided among themselves, and thus fell an easy prey.

Cannot these dreadful instances of credulity and delusion open your eyes? Must this country swell the catalogue of national folly and human misery? He trusted there was a Providence who would protect us. He trusted that a great majority of the people would be preserved from falling into those fatal errors which had proved the ruin of other nations. He was not disposed to doubt the patriotism of the people. It was not distrusting their patriotism to provide an army of disciplined soldiers. No one could predict what would be the first impression of an invasion. France was not without emissaries and some friends in this country. At the moment of invasion the French partisans would be actively employed to distract the patriotism and paralyze the energy of the country. At this moment it was of vast importance that the Government should have some troops to rally the confidence as well as the forces of the nation; no regular army could be contemplated as an adequate defence. But their utility was still great. They were a point which would concentrate the militia, the great reliance of the country.

Sir, said Mr. B., because our militia are brave and willing to turn out, in case of invasion, shall we not add to them the aid and support of a corps of disciplined troops? Shall they be exposed at once to the bayonets of veteran soldiers, inured to fighting? Without meaning to disparage the militia, he would say that no men could be made soldiers the day they were led into the field. If we designed, therefore, effectual resistance, it was necessary to have some men at least instructed in discipline before an invasion happened.

But we have been told, Mr. Chairman, said Mr. B., that our pecuniary means are not equal to the support of the army which has been directed to be raised. The argument on this subject has not been fairly stated by the honorable gentleman who moved the resolution. We have two events to contemplate, either that a treaty will or will not be concluded with France. If a treaty should be concluded, then, by the law raising this army, the troops would of course be disbanded; because

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they are entitled to serve during the existence of the differences between France and the United States, unless sooner disbanded.

If a treaty should be concluded, it must be in a short time. The event must be known in a few months, and of consequence, in case of peace, the expense to the country would be only the pay and subsistence of about 3,500, (the number already enlisted for the twelve regiments,) for two or three months, which could not exceed 200,000 dollars. If, however, France should still insist on terms destructive of the honor and independence of the nation; if, sir, nothing should remain but war, will gentlemen say the army ought to be disbanded? It is impossible such can be their infatuation. If France should again refuse us peace, it must be because she has some great hostile intention against us. The present state of things is prejudicial to her. She gains nothing and loses something. If she did not mean to do more, if she did not aim at some great advantage, she would readily accede to the moderate terms of accommodation which we ask. What can she design? A war upon our commerce is not a sufficient object. It would be of advantage to her corsairs, but the Government would acquire neither reputation nor advantage by it. If France will not make peace, she can design nothing less than conquest. And will we stop to calculate the expense of a war for our national independence? It had been well observed, by an honorable gentleman from Virginia, that at the commencement of our late Revolution America did not do so. Destitute of all means of defence but the energy of public spirit, calculation would have been useless. At this time we had means upon which we might calculate, and he trusted the spirit of the nation still remained. I believe, said Mr. B., that, in a war for their independence, the people of these States would submit to any taxes which their defence might require. If it were fifty per cent. on their capital, they would rather part with it, than with their rights and liberties, which they purchased with so much blood and treasure. In fact, in the event which he was contemplating, the only question for the people would be, whether they would not spend a part of their fortunes in their defence, rather than yield the whole in endless contributions to France? Upon such a question he presumed there could be no hesitation.

He should detain the Committee a short time longer in offering some observations upon the probable operation of the resolution abroad, in case it were adopted. Gentlemen in favor of the resolution affect to believe, that its adoption would not influence the negotiation which is pending with France. None of us have entertained the idea attributed to us by the honorable mover of the resolution, that these troops were to be sent to Europe or were to act against France. We readily agree that nothing would be more chimerical and absurd.

It is not from any view of a possible operation of the army against France that the disbanding could influence the negotiation, but from the impression such a measure would necessarily make on the

French Government, as to the state of affairs in this country. If, after having raised an army against them, without any change of conduct on their part, they were to see us disband it, what would they infer? Either that extreme imbecility pervaded our councils, or that there was a want of means on the part of the Government to maintain a small military force. Or, perhaps they would make an inference still more, that those whom they called and supposed their party in this country had become more powerful than the Government. In either case they would perceive less difficulty in the accomplishment of any views which they had on the country, than our plans of defence may have caused them to apprehend; and, of consequence, the inducements to an accommodation of differences would be diminished. It was a wise axiom in politics, that a nation which would negotiate to advantage should be prepared to fight. The resolution was predicated on an opposite principle, and was repugnant to the plain evidences of experience and common sense.

Mr. B. said the disbanding the army would have the worst effect at home. If the resolution succeeded, the soldiers were disbanded in the midst of Winter, were left without employment, and were thrown on the community to subsist by plunder or charity. That if the measure were delayed to that season when common justice would suffer the troops to be disbanded, the event of our mission to France would be known, and the term of enlistments would expire by their own limitation, or the necessity of retaining the troops would be no longer questionable. He begged the gentlemen to consider what would be the situation of the country if the army were now disbanded, and at the end of three months France should declare war. Would an officer or soldier return to the service of a Government which might be obliged to dismiss them the next day, without any change occurring in their political affairs. Mr. B. concluded with observing that, viewing the resolution in every point of light in which it presented itself to him, he felt the necessity of giving it his decided negative.

Mr. GALLATIN observed, that after the Committee had been so eloquently entertained, by the display of fancy exhibited by the gentleman last up, he did not know whether he should have it in his power to command their attention, as he could offer nothing but a dry discussion of the question itself. The motion did not contemplate that the whole army should be disbanded—a position on which the arguments of gentlemen opposed to it had been founded. It did not even go to reduce the army establishment to the same situation in which it was in 1798. In April of that year our whole number of troops on the establishment was 3,200 men. Our permanent establishment now, independent of the troops which are the object of the motion on the table, amounts to 5,400. There is therefore an increase of 2,200 men since April, 1798, which are not contemplated to be affected by this motion. This increase had been made by adding an additional regiment of artillery, and increasing the number of men in each company on

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the former establishment. In addition to these there are 1,000 marines, who are likewise upon the permanent establishment, and who may occasionally serve in garrison, in the nearest place. In case of war, or danger of invasion from any foreign country, such increase of the companies on the permanent establishment was to take place, by virtue of the law to organize the army, as would make an addition of 2,500 men. This was independent of what was called the eventual army. The resolution affects only what is called the additional army, which was to amount to about 9,300 men. These are proposed to be disbanded, which, if done, would still leave a force of 5,400 besides 1,069 marines, and power in the President to raise 2,500 more in case of invasion or war. This is a correct statement of the existing force. What is called the permanent establishment, of 2,400 men, I conceive to be sufficient to garrison the forts and harbors, and for the protection of the frontiers against the Indians. Indeed, that appears also to be the opinion of Government; for such of the 9,300 as are enlisted are encamped in cantonments.

Permit me first to say that all the speech of the gentleman from Delaware, with the exception of a few observations which I may notice hereafter, is a strong argument in favor of the motion which he attempted to oppose. The argument which he used, and supported with all the ability he possesses, was that no dependence could be placed on the amicable disposition of the French, and that it was not probable a peace would be the event of the negotiation. On this supposition he argues the necessity of a continuation of this force. It is from this uncertainty of things I wish the army to be disbanded. Sir, if I was convinced that the event of the negotiation would be a treaty in a short period, I should not think the advantages that would result from an immediate disbandment of the army so very important as to have rendered this motion necessary; for, in case of an adjustment of differences with France, the army was already, according to law, to be disbanded. It is because I am not certain a treaty will be made in a short time, because it may not be made during the session of Congress, and therefore because the troops may continue in pay for a great length of time, that I conceive the motion to be important. I do believe that if there should be no treaty formed with France this army would be useless; nay, I will go further and say it would be pernicious. When I say it would be useless, I conceive the burden of proof does not rest on me, but that it is incumbent on those gentlemen who think the army necessary to prove its utility. The arguments of the gentleman from Virginia yesterday (Mr. MARSHALL) did not appear to place any great dependence upon this army, let what would be the event of the negotiation. Yet he has repeated the idea formerly so much insisted upon—the inducements which this country offered to the French for invasion. In favor of this doctrine he gives however, but one argument, drawn from the events of the former wars between France and Great Britain. He very justly observes, that in all those

wars where America was united to Great Britain, she triumphed over France; but that event was changed during the last war, when the weight of America was thrown in the scale of France. And from thence he draws the conclusion that America offers great inducements to invasion. The fact brought to view by the gentleman, proves to me the very reverse of what he intended to suggest. If the weight of America, thrown in the scale of Great Britain, decided every contest in favor of that country, can it be the interest of France, by an invasion, to throw us altogether into the arms of Great Britain? Is it not, on the contrary, her interest to cultivate our friendship and to promote at least our neutrality? But the history of the last war places the argument in a far more forcible point of view. The force of America was not only withdrawn from an active operation against France, but it was actively employed against Great Britain. It was that contest which rendered the weight of America of immense importance. But where and in what manner was that contest carried on? Great Britain invaded America; and it was that invasion, it was their shedding their blood and exhausting their treasure in the hopeless attempt, which divided their force, weakened their efforts everywhere else, and procured almost everywhere the means of victory to their enemies. Yet it is said, that the recollection of the events of that war are an inducement to invade this country, and thence is drawn an argument in favor of the army. To my mind nothing can appear more contradictory than that conclusion. It amounts to this: England was not only unable to conquer America, but the attempt divided and enfeebled her so much as to change her relative situation with her ancient European enemy; therefore, it is the interest of France to invade America. It is evident that the recollection and experience of the last war added greatly to our confidence in our power of repelling an invasion, and our security against the renewal of the attempt from any nation. France has neither naval nor money resources to spend for it—not scarcely to accomplish what she wishes in Europe. Notwithstanding her boasted power, she is not in any degree equal in those two resources to what Britain is now, after a long and expensive war; much less is she equal to what that nation was in 1775, when she invaded this country. I need not add, in confirmation of these ideas, that our population is nearly double at this time of that of 1774, and that with our population our resources are doubled at least. This is a fact which cannot be disputed.

We have been told, by the gentleman from Delaware, that if France did not make a treaty with us, it was because she meant to invade us. I cannot conceive how he could draw this conclusion. He has recapitulated all the conduct of France towards us, and related the indignities with which our former missions were treated. She was not, at either of those times, disposed to treat with this country, but did invasion succeed the failure of the negotiation? Sir, from past experience, and from a knowledge of her situation, and the small

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inducements to that conduct, the danger of invasion is not to be apprehended, even on a failure of our present negotiation. If France wishes to continue the dispute, I believe it will be because she has another object in view, and that object is solely to plunder our commerce. This may be an inducement, but the other cannot, on account of her want of power to execute it, or, if she had power, the want of inducement.

The argument, however, on which the gentleman from Virginia principally rests his opposition is grounded on a supposition that the present motion will have an unfavorable effect upon the negotiation, inasmuch as it is, in his opinion, a partial dereliction of the system of resistance adopted by this country, and to which he ascribes the present temper of France. I do not believe such an effect can be produced by it; if I did, or had the least apprehension, I should be among the last to advocate it; for I certainly wish for nothing that can impede the negotiation. I do not believe it, sir, because, for the reasons I have just now given, I consider this army as useless even in case of a continuation of hostilities with that nation, and because I do sincerely believe that France entertains a similar idea on the subject with ourselves; and that our having three or four thousand men effective, or from nine to ten thousand nominal men, more or less, will not produce the least change in the opinion of our ability to resist an invasion, or in her expectation of success should she continue to be hostile. In the next place, I do not conceive this motion to be a dereliction of the system of resistance against France, because the additional army never made a part of that system, which was adopted by the last Congress. That system, besides putting in a situation of defence by sea our ports and harbors, which are completely garrisoned by the permanent army, independent of these troops, consisted in repelling force by force at sea, in resisting the aggressions of France on the element where they had been committed, and in suspending our treaties and commercial intercourse. The only addition to those measures was merely one of caution, by giving the President power to call out a provisional army in case of "war, invasion, or danger of invasion." All these measures were proposed by the Committee of Defence, and were passed between April and June, or thereabout. After these acts were passed, a motion was brought into the House, and carried, to create these twelve regiments. This was entirely an independent and unconnected motion from the measures reported by the committee at an earlier period. Further: although this law did pass in July, it was not attempted to be carried into execution till the next Winter, which was about six months after the law passed. The first appointment of officers was made after the meeting of Congress in that Winter, and of course the enlistments did not take place for a considerable time. I therefore argue that this was not a part of the necessary system of defence, or, rather, resistance, before determined on and executed. I well remember what were the arguments adduced in favor of the measure at that time, and the circumstances which led to its adoption,

which was carried by a very large majority of the House. We were told of the proximity of St. Domingo to the Southern parts of America; we were told of the weakness of that part of the country, arising from their black population, and the danger to which they were exposed from an invasion of blacks from Hispaniola; we were told that it was not doing justice to so important a part of the country if we neglected to add to it the same security which other parts enjoyed. Not that much danger of invasion was apprehended, but that that part of the country should be placed beyond the power of complaint. I know many members received impressions so far as to induce them to vote for it, of which number I was one. Yes, sir, I then voted for the law, under consideration, but I consider the situation of things is now materially changed. So far from this being the situation at present, a treaty has been formed with the Government of St. Domingo, and therefore invasion cannot be apprehended from that quarter. Another reason in favor of this law at the period of its proposition was, that several members of this House had doubts whether or not the law for raising a provisional army was strictly Constitutional, because power was given to the President to raise it "in case he should, in his discretion, think proper." They therefore voted for this rather than to see that carried into execution which they doubted the constitutionality of. At present, neither of these reasons can be operative; the law giving this discretionary power to the President expires at the end of the present session of Congress, and the danger from St. Domingo is set aside by a treaty. I therefore think that, inasmuch as this does not make any part of the system of defence, or resistance against French aggression, the repealing of it cannot affect our negotiation, or impress that nation with an opinion of our imbecility.

The gentleman from Delaware goes farther: he says, that if we are disposed to think so friendly of France as to disband our troops, we shall next propose to disband our navy, renew our intercourse, and abolish all those measures to which we were driven by her hostile conduct. I will, for my part, say, that I see no connexion between the one measure and the other. Although I was opposed to all the measures, nearly, to which he alludes, yet I would not, in our present situation, vote for the repeal of either of those laws. I was averse to the general system of hostility adopted by this country; but, once adopted, it is my duty to support it until negotiation shall have restored us to our former situation, or some cogent circumstances shall compel a change. At present, I think it proper that the system of hostility and resistance should continue, and I would vote against any motion to change that system.

At the same time, I am of opinion that a Naval Establishment is too expensive for this country; but, as we have assumed an attitude of resistance, it would be wrong to change it at present. There is but one of those laws about which I have any doubt, that is, respecting our commercial intercourse with France. I will not say that our suspension is not injurious to us upon the whole; perhaps it

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might be better policy to repeal that law; but I state this merely as the only point connected with our system of resistance on which I have not made up my mind.

The gentleman from Virginia, after opposing the motion, told us there was some middle way, some modification of the army, which might be adopted and would save a great part of the expense. We ask the dismissal of 3,500, which is the number enlisted towards the 9,300 ordered by law. We then keep 5,400, besides 1,000 marines. The object of the gentleman would be to prevent a certain number being enlisted, perhaps all those who are still wanting. I ask, then, if to reduce our Military Establishment is a dereliction of our system of resistance, and may, as insisted on by that gentleman, have a fatal effect on the negotiation, I ask whether any modification will not produce precisely the same effect? Sir, let the modification be in whatever manner, whether to reduce the number of regiments, or of men in each regiment, it will still be receding from measures established eighteen months ago. In whatever manner introduced, it will be neither more nor less than saying that the situation of affairs is altered, and that it is not necessary to keep up all these forces. Eighteen months ago we thought 1,500 necessary, but now we think proper to modify agreeably to our situation. All the difference between the gentleman's proposition and ours is, he thinks the forces may be reduced to 8,000—we think they may be reduced to 5,000; and there is only a question between eight, and five; the principle is the same, and the effect on the negotiation the same. But, sir, I believe a modification in either way would not have the least effect. I think that the concession of that gentleman in favor of a modification is exclusively in support of my position, that this army could not affect the negotiation, and therefore that it was useless; but I will go farther, and say it is pernicious. I think so, because taking these men from their occupations and employments, and putting them into a service where their labors are perfectly unproductive and where they contract habits of idleness, is of itself an evil. But, further—the army exhausts our resources, by putting us to a greater expense than can be justified, except from urgent necessity.

I believe that if there is any danger to be apprehended from France, it is by sea, and therefore I think that gentlemen who go on that plan, ought, in conformity to their own system, to apply our resources to the object which will protect our commerce. I shall not enter into a detail of our actual financial situation, because the statement made yesterday by the gentleman from Virginia was sufficiently accurate, and because documents are not yet before the House on which to ground one perfectly correct. We cannot however value our receipts derived from revenue at more than nine millions. Our actual expenditure for the present year, according to the existing establishment, will be about fourteen millions of dollars, to be supplied by a loan. And the expense of the year 1801 will be increased by the interest on that loan, and by that on the deferred debt, viz: \$1,100,000, which

then begins to be due. Those two objects will make an addition of one million and a half for the next year. The ability and willingness of the people to pay their taxes, as an abstract principle, cannot be doubted; but, however willing they may be to pay taxes, this year's deficiency must be supplied by a loan. Our income is now insufficient; the Secretary of the Treasury has told us that we must have recourse to a loan; no tax which we can now lay will remove the deficiency, because its receipts would not come into the Treasury till 1801. Our situation then is, that, upon a revenue of nine millions, we borrow five millions at the rate of eight per centum. I think this simple statement to be a sufficient reason why we should retrench an expenditure of two millions and an half, the appropriation necessary for that additional army which it is the object of this motion to discharge.

I think this motion, accompanied with the statement which has been made, leaves but one opinion on the floor—we either must decrease our establishments or increase our revenue or our debt. I will not say that it is impossible to increase our revenue. I know it is possible to raise more even by direct taxes; but I know, at the same time, that it cannot be done without inconvenience to our citizens, and the more so as our produce has experienced a considerable depression. Gentlemen who are not disposed to diminish the establishments will find it extremely difficult to raise new taxes, or to increase those already laid, in the present circumstances of the people. This, I think, requires no proof.

We are told, by the gentleman from Delaware, that the people of this country would pay fifty per cent. for money rather than submit to a foreign invasion. I admit that if the danger was imminent and real they would agree to pay anything. We do not conceive there would be any reluctance to pay taxes were such our situation, but, when it is not, it will be difficult to convince them of the propriety of additional taxation. Yet the confidence expressed by that gentleman in the willingness of the people to pay, does not very well comport with another part of his argument, wherein he insinuated a want of confidence in a considerable part of the people, whom he supposes so far as even to wish that our Government should be overturned. In support of his opinion, he alluded to several Legislative declarations and official addresses and answers. He infers, therefrom, that it would be unnecessary to keep up this standing force, because the militia would be fully confided in for the defence of the country. I am astonished at the palpable inconsistency of the gentleman—that the people would willingly pay fifty per cent. of their property for defence against an enemy, and yet no reliance is to be placed on those very people when the enemy comes!

Much weight appears to be placed on the argument of the necessity of these troops in case of the failure of the negotiation; and that we must wait till that failure actually takes place, for we do not know what will be the situation of affairs at that time. The force of this argument does not strike

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me, because I always consider it my duty to give my vote on the present situation of affairs, and not on what *may* occur some months hence. At that time we shall be told, notwithstanding there may be no apparent want of this force, that it would be very improper to disband the army then, because we could not tell what might happen three months after. These three months pass over, and then three months more, but when is the proper time? This argument would hold good while the war in Europe continues, under the uncertainty of what may happen. The present and existing state of things and probability of events are the only ground of legislation. But if we legislate on mere possibilities, however remote and improbable, there never can be a time when an army shall be thought unnecessary. The same reasoning might be urged by gentlemen even if the negotiation should succeed, for, from these apprehensions we should not then be out of danger, and while in danger we must prepare for it. I will go further, and say that, if the accommodation with France does succeed, there will be stronger ground in favor of the continuance of the troops, on account of the danger of a rupture with Great Britain. If we form a treaty with France, in my opinion this will not be the least probable event; and, from her, invasion is more likely than it can be from France at any period. It is well known that at this time our disputes with that nation are not trifling. The depredations of Britain are now at least equal to those of France, and are a sufficient ground of offence. In addition to this, two of the articles of our treaty with that nation are in a state of suspension. The one for adjudicating her spoiliations upon our commerce was suspended by His Britannic Majesty; the other, on this side the Atlantic, relating to British debts, being a subject of dispute between the Commissioners, is also suspended. If, to the unsettled British spoiliations, and debts, and British captures, you add another cause of dissatisfaction, by a change of our situation in relation to France, her enemy, from war to peace, and from suspension of commerce to free trade, I appeal to any gentleman's good sense to say whether a rupture with that country will not be more to be apprehended than invasion from France ever was, now is, or then will be? If we retrace our steps we shall see we have always been insulted by one nation in proportion as we attached ourselves to the other. This gave cause to the mission of Mr. JAY; we were supposed by Britain to have entertained an undue attachment towards France. When the treaty with Britain was passed, France was under the same impressions. I do not say that a treaty with France would be the cause of a war with Britain, but it might produce uneasiness. Our present system of arming at home; our suspension of intercourse with France; our dissolution of treaty; our naval and mercantile armaments, by which we take French vessels, are highly favorable to Britain. Take all this away, and we may pronounce it cannot be very pleasing to Great Britain.

What I have stated are not my arguments in favor of a continuation of the army; they have no

impression on my mind in that view. I am not afraid of invasion from any Power. I know it is within the possibility of events, but I do not think it probable. I have only used them to show that this is as proper a time to disband these troops as can exist, and indeed more proper, whether the event of the negotiation be a treaty or not. I think the present time is proper; that if it is not thought so by Congress we cannot anticipate any one whatever.

I will only add a few ideas in answer to the gentleman last up, as to the impression the measure would make on the soldiers themselves. This as a general argument is not a good one, because soldiers and officers enlist or accept their commissions during the existing disturbance, "unless sooner discharged;" therefore we have reserved a right to discharge them at any time. The gentleman from Virginia (Mr. MARSHALL) thought a middle way would be preferable. The motion on the table does not exclude a modification, if any gentleman should propose it.

I will add that I understand our permanent establishment at this moment is not full, and therefore, if the soldiers are now discharged from this additional army, they may avoid all the hardships so humanely contemplated by the gentleman last up, by enlisting in that army. With respect to the officers, if they have a prospect of being discharged from the service in a short time, the sooner they return to their homes and occupations the better; for the habits acquired in encampments are, in my opinion, nowise calculated to promote their future usefulness to society or to themselves.

Mr. HARTLEY said he did not intend to have risen on this subject, but, on the recollection that he was entrusted with a petition to the House from his constituents, last session, on this subject and against a standing army, he was bound to it from a duty he owed them. These troops he believed did not fall under the denomination of the permanent Military Establishment, and therefore he was not of the opinion that it was an attempt to reduce the Military Establishment. This law was passed under the existing differences with the French Republic. We had been, and continued to be insulted, and he did not conceive there was any change in circumstances to warrant a change in measures. He said he voted for the raising of these men, and could see no reason to alter his vote. Mr. H. said he would wish to revive an idea thrown out by the gentleman from Virginia, (Mr. MARSHALL,) on the propriety of a modification. He wished gentlemen to consider whether a modification could not be made so as to reduce the expense, and yet not to abandon the measure. The people in the country, he said, were very much alarmed at seeing bodies of troops marching about, and from the assessments lately made they were apprehensive that the expense of them would be burdensome. The people were not acquainted with the meaning of these things, and therefore their apprehensions were alive to the expense and danger. If there was even a suspension of farther enlistments he thought it might have a good effect; but something was necessary to be done in order to

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quiet the apprehensions of the people with respect to a standing army and an increase of taxes, which now threatened them. He hoped gentlemen who voted against the resolution would also concur in the necessity of a suspension in the enlistments, and perhaps some other modifications which may be thought necessary to save expense. He should vote against the present resolution, but he hoped to see one adopted to effect a saving some other way.

Mr. LEE said, if he was to consult his own feelings, or were he to regard momentary popularity, he should certainly remain silent, or support the resolution on the table. But there were seasons when, situated as he was, silence would be censurable, and a regard to personal considerations criminal; this was, in his judgment, one of those seasons. He must therefore claim the indulgence of the Committee, for a few moments, while he should explain the reasons which governed his decision. For his own part he wished the state of the resolution had been decided yesterday, as it was placed in a fair and plain point of view by the honorable member who moved it, and by his honorable friend who rose first in reply. Although much additional argument had been since proffered to the Committee, still the real ground on which the question rested was narrow, and ought never to be forgotten. It was simply this, shall we, for the sake of a small saving, break in on our system of defence, uninformed as we are of the pending negotiation for peace, or continue to adhere to our defensive system, until we know with certainty what we may expect on the subject of peace? The honorable member from Delaware had, with much ability and eloquence, pressed some of the observations made by his colleague yesterday, and added considerably to the range of argument against the resolution. It would certainly, therefore, have been useless consumption of the time of the Committee to have risen on the present occasion, had not the remarks which fell just now from the honorable member from Pennsylvania demanded attention. He would confine himself to those remarks chiefly, and hoped to be able to show their irrelevancy.

The gentleman began by stating that the effect of the resolution was not clearly understood, for that it would not affect the original army, which last year had been considerably augmented, but would only affect the additional regiments now raising; that, should the motion prevail, we should be left with an army of 5,400 men, besides the corps of marines, which, in his opinion, was adequate to any probable demand. I agree that the gentleman is correct in his conclusion of the effect of the resolution, but insist that however gentlemen have heretofore misconceived the same, he cannot be induced from this correction of the effect of the resolution to relinquish his opposition to it; for the more you reduce the saving to be produced, of course the more you diminish the influence of the chief argument used by most of the friends of the resolution.

The gentleman asserts confidently that the addition of the twenty-two regiments, which when com-

pleted make about 9,300 men, cannot be viewed as in any degree operative on the pending negotiation, for if invasion be really apprehended a much larger force would be requisite. It is true that looking at the army in this view it cannot be deemed very influential; compared to the enemy the force is small. But when you regard the army as part of a general system of defence, when you regard it as indicative of the public spirit, it must have its proportional influence on the councils of France; and when you view it as the rallying point of our militia, in case of invasion, 14,000 well disciplined, well appointed troops would not be found an inconsiderable obstruction, seconded as they would be by proper reinforcements of the militia, to any invading foe, however vast its resources.

It was justly observed, by my friend from Virginia, that the change in the councils of France towards America could only be ascribed to her manly preparations of defence, in consequence of her failure in attempts to adjust amicably existing differences. To what other cause can this change be placed; will gentlemen show us? This being the fact, I pray you, Mr. Chairman, to consider what will be the probable effect on our present effort to restore peace, should the resolution on the table be now adopted. It goes not only to manifest a shameful mutability in our councils, but tends to impress an opinion of fiscal debility in our nation, which, if true, would encourage aggression, and invite an attack even on our independence.

Suppose that paper, adopted by Congress, should reach Paris in the very moment when the Ministers of each nation were engaged in the formation of a treaty of peace, what would be the probable effect? Would it not imbolden the enemy, and depress your Envoys? Would it not lead to a submission, on secondary points at least, and thus produce sacrifices which may materially injure the commerce or other interests of the American people? Should we run this risk for the saving of \$134,000, especially when, should peace not be concluded, we should be brought into considerable pecuniary loss by giving up the troops already raised? When our Envoys left their native shores they left a people fixed in their resolution to maintain their rights, disregarding loss of money or risk of life. They left a Government settled in its measures of preparation, and pursuing steadfastly the adopted system of defence. Let no change interrupting this proper conduct be introduced, for baneful must be its effects on the councils of our foe and on the spirit of ourselves.

The honorable member who introduced the resolution candidly declared that, was he sure of success in our pending negotiation for peace, he would not have troubled the House with a business little in that event, and the cause of some irritation. The same sentiment has been repeated by the gentleman from Pennsylvania. Here, indeed, Mr. Chairman, I cannot but express my surprise. If I understand the gentleman (peace not restored) still he would dismiss the additional army. We are in a state of actual war, our property seized and confiscated when taken, our seamen when

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captured imprisoned; and yet, in this state of actual war, if our Envoys return, the object of their mission unfulfilled, our country is to be deprived of the greater part of its military force!

On what ground rests counsel like this? I will not impute opinions delivered here to improper motives, but I must be permitted to assert that advice so strange excites suspicions truly alarming. The honorable member has attempted to turn an argument used by my honorable friend in support of the resolution—that is a hazardous experiment, and on the present occasion certainly ineffectual. Suppose the case before mentioned to take effect when France and Great Britain shall, with the rest of Europe, be in a state of peace. America has no alliance with Great Britain. The invasion of this country on the part of France will not be an object claiming the interposition of its rival potentate. What may not force and intrigue united accomplish? If not a conquest of part, the invasion may terminate in an ascendancy in the American councils, so far as to unite France and America in all future operations. Thus will France produce an object to her all important, and certainly such an object, for the reasons before mentioned, is worthy of the risk, expense, and trouble of invasion.

But it seems, at all events, regular troops are not necessary: militia, of themselves, are an adequate defence. This I deny; and much as I wish to see our militia placed on a respectable footing, much as I count on their aid whenever danger approaches, yet I never can be brought to trust the defence of the country solely to them. The experience of the last war justifies the opinion. Look at the battle of Long Island—braver men on the part of America were never brought into action, but vain was their courage. The best blood of America was prodigally and ineffectually expended during the war, for want of the aid to be derived from discipline and skill. See what the same sort of men did at the close of the war, when properly trained. The battle of the Eutaws is a distinguished example of the effect of discipline on the American soldiery. But really it is trifling with the Committee to press farther this truth; the history of man, from the beginning of the world to this day, throughout, maintains the folly of placing the defence of a nation on what we call militia only: economy too forbids it. But, because we firmly maintain this truth, insinuations go forth inculcating a belief that we are inimical to the militia, and friendly to a standing army. This is untrue and unwarranted by our declarations. We hold no such sentiments. We wish for the best and cheapest defence, and that we believe to consist of an adequate regular force, calculated for the occasion, and dismissed as soon as the object is answered; to be seconded by seasonable reinforcements from the militia.

But, says the honorable member, let us reduce the army, and use the saving in augmentation of the navy. I very much respect this last establishment; I prefer it, and will always be ready to cherish and invigorate it, but not now, in the way suggested, nor at the expense of the army. Until

we are assured of peace we must hold both, and I doubt not we shall hold both.

But we come now to the point of pressure. The honorable member has given us a statement of our income and our outgoings—nine millions annual revenue; fifteen millions expenditure annually; a deficit of six millions. Agreed; make it eight if he pleases; it is a serious business, but still it is nothing compared to our national resources, or the stake at issue. We have the consolation to know that our money is raised upon an equal system of taxation, that it is honestly disbursed, and that the people's Government apply it to the people's service, and for their good only. Talk not to us, then, about the expense of any measure, with a view to destroy a measure in itself proper and necessary; especially in a contest on the successful termination of which hangs the most important rights.

We are a great, free, and powerful nation, and no gentleman can put his finger on any act of the American people fixing on them the imputation of niggardness. Whenever money is wanting for the public good, it will be readily given. In my native State (a State which I profoundly respect and truly love, much as I differ politically with its Legislature) the taxes were raised 25 per cent. at one dash—no difficulty attended their collection. I trust the American people value and respect their Government as much as the people of any State can their State Government; and I argue, therefore, that the whole, for the purposes of the whole, will furnish money with as much alacrity as do a part for the purposes of a part.

But, says the honorable member, this is the proper season to dismiss the army, for should it not be done until peace is made with France, it never will be done; amity with France will beget hostility with Great Britain. This is possible, but I hope not probable. Was it so, it certainly furnishes a strong argument against the resolution. We should want the army to repel British aggression. It is to us of no importance, as to the principle, what nation becomes our foe. All I wish is, to avoid cause of war with any; this done, it is enough for us to know that America has an enemy: its name or color will not change my fixed resolve, which is to defend my country against any and every enemy, by true and adequate preparations. The honorable member contends that the twelve regiments form no part of the original system of defence, and therefore may be dismissed without breaking at all on that system. He himself voted for the twelve regiments, and never considered them as a feature in the system we wish to hold inviolate. Yet the same gentleman tells us that the provisional army did form a part of the defensive system but being believed by himself and others to be unconstitutional, they substituted in its place the twelve regiments. Certainly the thing substituted must be viewed as was the thing whose place it assumed: of course the twelve regiments are properly considered as part of the system of defence, and the honorable member by his own showing is bound to unite with us in holding safe this substituted additional force. Again, the proximity of St. Domingo to our Southern States,

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weak from their peculiar condition, had its effect in producing the law forming the twelve regiments. A treaty has since been made with St. Domingo; consequently this reason no longer operates.

I know nothing about the supposed treaty, but sure I am that no treaty we can make with St. Domingo can prevent France, in case of an invasion, from using that island as the place of rendezvous for the invading forces, as well as applying all the troops she may find there, white and black, in support of her views. The proximity then of St. Domingo is as operative now as it was at the time the gentleman alludes to.

Having noticed such points in the argument just delivered by the gentleman from Pennsylvania, I beg leave to occupy your time with some few observations on a part of the argument used by my honorable colleague who moved the resolution. He spoke in decided terms of our fiscal debility, and descanted largely upon this assumed data. He expressly said, if I understood him, that such was our impoverished condition, that want of money would soon compel the disbandment of the army. Was this the case, we are fitted only for colonization; our boasted independence is a mere illusion, and the blood and treasure expended in its attainment a wretched and useless sacrifice. Was the gentleman correct, not only ought his resolution obtain, but the pageantry of self government ought to be abandoned; this House ought to return to their homes and communicate the sad but true intelligence to our constituents, that they might look out for some protector, themselves being inadequate to that high end. Happily for us, happily for our fellow citizens, my worthy colleague is entirely mistaken. We are a great, powerful, and free people, capable and ready to maintain our rights and to transmit them with all the expenses attending their defence to a grateful posterity; a posterity who, participating in the good derived from our toils and exertions, will cheerfully share in the evils accompanying the good, will pay their portion of loans, though borrowed at eight per cent., and even at a higher rate, if necessary.

If, Mr. Chairman, the resolution on the table could but meet the same unanimous vote as was displayed on a late occasion, the rejection would do away all the ills its production threatens. I lament deeply the existence of such a proposition; I wish it had rested alone in the breast of the honorable mover, but as it has been introduced, let us destroy it without delay; it holds up a spirit of dissension at a period when the best interests of the nation and its true policy alike inculcate the sacred duty of cherishing and confirming a spirit of union.

Mr. NICHOLAS, said, from the manner in which the subject had been treated by the gentlemen who opposed the motion, the question again recurred, as he conceived it would, and placed itself in the position first intended, which was, whether the army should now be disbanded, or whether it never should; for it was apparent that, if it was not now done, the ingenuity of gentlemen opposed to it would always, on the same arguments, be able to

keep it from dismissal, unless there should be a perfect accommodation with France. Yesterday it was said, by the gentleman who opposed the motion, that the army might be so modified as to give a great saving of expense, and might even be disbanded if the failure of negotiation did not threaten new dangers; but to day such a riddance of it had been treated as fanatical, although suggested by the gentleman's *honorable* friend. What might be learned from this? Why, that whenever a motion should be made for disbanding this army, it must be considered whether there was a possibility of invasion or not. That might ever be apprehended, and yet never nearer or more probable than at the present moment.

The gentleman last up (Mr. LEE) had said much of what this country could do in case of necessity. To show the disposition and power to meet danger, he cited an act of the Legislature of Virginia, for the purchase of arms. At the time alluded to that State went farther than the gentleman thought necessary, although the measure was a proper one even for a time of profound peace. But what a country could do in times when it was apprehensive of invasion, or actually invaded, and what it should do when danger is only possible, were two questions, entirely different.

The gentleman last up, in order to aid the argument of the gentleman from Virginia, who preceded him, says, that in the event of a peace between France and England, the desire to direct the councils of this country might produce invasion. This admits the necessity of a peace between France and England before the measure would be practicable, and supposes that then France might pursue her system without restraint from Great Britain. The gentleman, by defining the danger, shows more forcibly than we could that there is none, for, besides postponing it to a most uncertain event, he makes it depend on what is impossible, that England should be a calm spectator of the contest. I do not believe our safety depends on either, and have only said so much to show that there is no necessity to guard against invasion according to the gentleman's own showing.

It was said, by the gentleman from Delaware, that France could have no other view than invasion if she broke up the negotiation. If this was the only ground on which the gentleman's probability of invasion could take place, it certainly was very unstable, and yet he adduced no other. This was well answered, that negotiation had failed, and yet no invasion had taken place, nor an effort made to that purpose. When nations quarrel it does not follow that views of conquest are entertained. Very few wars end in an acquisition of territory, much less in the subjugation of either party, and if advantages are at last gained, it is because the money resources of one or other are exhausted.

Do we not run the risk of bringing ourselves, by untimely and unnecessary exertions, to a situation where submission to dishonorable terms may be necessary? Are we not in danger of doing the work of our enemy, by making so imprudent and useless an effort? We shall find, by attending to

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the contest now going on, that both parties have expected its termination from the poverty of the other. The British Minister said, that as France had no regular financial system she must soon fail. On the other hand, France supposes that the power of Great Britain to borrow money must be limited, and that she could support her credit no longer. These expectations were so well founded on both sides, that in all probability they have spun out the war to its present length. Let us not place ourselves in a situation where we may be expected to submit, from the difficulty of maintaining it.

The gentleman says it will have an unfavorable effect on our Commissioners in France. What possible effect can it have? This must depend on the first consideration, that is, the danger of invasion. If no danger is to be apprehended in time of war, if no employment is likely to be given to the army, they surely cannot influence the negotiation. If the measures of resistance here have influenced the conduct of France, as gentlemen assert, it must be those measures which deprive them of some benefits they derived from this country. So far from proving, by the measure now proposed, that our determination to resist is weakened, it must prove the reverse; as it will be a confirmation of that part of the system which can alone have touched them, and will give us ability, if we choose, to enlarge it. So far from not showing a determination to defend ourselves at home it gives a defiance to that country, with the natural strength of our country, the militia, and shows that we are not dependent on this pitiful army. It is this language I wish the resolution should speak, and nothing but a perversion of terms can extort any other from it. The gentleman says the navy is his favorite object. Again, sir, I say that we can preserve this object and dismiss the other, which we are not able to bear without unnecessary burdens; and the gentleman supports all the inference I make from parting with the army while other measures are supported, when he confesses that the army is the least important. Will it not have a worse effect on our Commissioners to know that we sent them away under appearances of great military strength, which they know we are unable to keep up? The consequence will be a supposition that we have now stretched every nerve, and must soon relax. But take the measure proposed, and you will say "we have shown our determination of defence as far as danger showed itself; what is no longer necessary we disband." This, I believe, is the true effect of it.

The gentleman, in the outset, disclaimed any regard to popular feelings on the subject. I know not what the general opinion is, and therefore cannot be suspected of conforming to it; I know that in my part of the country the people are determined to bear all the expense that is necessary, but I hope that they require us to give up all unnecessary expenses and to spend their money only on useful objects. I do believe that nothing but a determination in the people to prevent all expenses which do not appear to be absolutely necessary, will prevent the lavishing of public money upon useless objects, or even preserve a Republican Gov-

ernment among us. I am sure that nothing but a principle of economy will secure to us the happiness we enjoy.

All the gentlemen who had been up, Mr. N. said, had stated his opinion to be that it was impossible for the country to bear the expense. Perhaps, he said, he had stated it in too strong terms; if it were conceived to mean that it was impossible for this country in any event to bear the expense, he would declare he meant no such thing. He knew the country would bear very much in case of invasion. For himself, he would go the full length in patriotism with any gentleman in the House on such an event. My opinion was and is now, said Mr. N., that the expense is greater than can be borne with propriety; that its continuance now is unnecessary, and would deprive us of means which would be more properly retained until the danger was in prospect. It is the uselessness and misapplication of the expense I meant, and that ground I still maintain.

The gentleman from Delaware stated that the resolution could only be founded on a confidence in the disposition of the French towards this country in the negotiation. I disclaim any impressions of this kind; I know of no such thing. On the contrary I act on a supposition of the possible failure of that negotiation. I repeat, with the gentleman from Pennsylvania, that if I was certain of the good success of that measure I should not think it worth agitating the House for; I would now withdraw it if I could ascertain that fact. But I press it upon the Committee because, in case of the failure of the negotiation, the increase of passion on this floor would be so great that, though the expense might be equally useless, it would be impossible to retrench our expenses. It is impossible for me to adopt the opinion of the gentleman from Delaware, and say that we invite them to invasion by disbanding our troops. We do not leave the country defenceless; he cannot believe any such thing, because the contrary is apparent. We only want the expense taken from an object where it is useless, and where it has done no good, and if necessary, place it on another, which we will agree deserves a preference to the army. Let gentlemen say what they will on our state of security, they must still acknowledge that our principal defence against invasion from France, or any other Power, is in our own natural means, the people. This cannot be questioned. We have large claims on France for depredations committed on us; we know not the result of our demand. France may refuse us peace, from an unwillingness to make compensation. If her animosity should still continue against this country, it is not likely that it would ever show itself in any way but that hitherto practised—invasion is not to be apprehended.

The only specious argument which has been used is the trifling expense of these troops for two or three months. For this time I could bear the expense willingly; but, sir, it is the expense for two or three years that this Committee is called to vote upon, for the reasons already given. It is the system of borrowing money to pay these troops,

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which we deprecate. This system of borrowing money to pay the interest of money borrowed before (which must soon be the case) will inevitably hurry us to ruin and bankruptcy. Unless, therefore, we can with propriety lay new taxes on our people, it is a duty we owe to our constituents to stop this among other unnecessary expenses.

The gentleman from Delaware (Mr. BAYARD) supposes the French Government will think that we are either too poor to bear the expense, that we are foolishly versatile, or that there is a party in our country to support their views. I wish the gentleman would prove that the rejection of the resolution would not have the effect to prove our foolishness in continuing a great needless expense. Sir, is a nation never to alter its course? Is it never to determine whether it has done right or wrong, and change its system? Is it to persevere in doing the very work of its enemy, and never to retrench an expense, though ever so extravagant? This is the way I would wish to see the question explained, and on this we are called to vote.

The next impression contemplated was that we are too poor to continue our defensive system. How can this be, since it divulges nothing new? What better publication can be made than the advertisements of the Treasury Department to borrow five millions upon a revenue of nine? Is not this notorious? It would be folly to expect any operation from the use of a fact already well known. The third effect the gentleman conceived it would have, was, to give the belief that a party favorable to French views were in this country. I did suppose that this topic was exhausted, and that we should hear no more on that head, of which we have heard so much. This subject is so completely exhausted that I do not believe there are any ears to receive it. But I would beg the gentleman to inform us how, if there was danger under this circumstance, they would recommend the House to act? Why, I suppose give up all their opinions to them, and sacrifice all their views for the good of the country, to prevent France acting under such a deception. The consequence of this is evidently to keep down the freedom of opinion, and to destroy the usefulness of every member who is afraid of being called by the gentleman a French partisan. I am not afraid of this impression, and therefore, as I think the motion right, it is not the clamors of that side of the House, nor their imaginary dangers, that will prevent me acting up to my duty.

The gentleman from Delaware concludes by supposing that France would establish this very measure if she had superintendence over our councils. This would lead us back again to inquire into the danger of invasion, and the propriety of keeping up a standing army for an event which nobody says is more than possible. I am sure there is no apprehension of invasion in a great majority of the members of this House. If the question was now agitated whether this army should be raised, if it was not now in existence, there would be two-thirds of the members of the House against it, because they would conceive it unnecessary. I would appeal to the reason of

gentlemen whether the same opinion must not now strike them, and with some force, in favor of disbanding this useless army. If there is no danger of invasion, in the opinion of the Committee, they must vote in favor of the motion.

Mr. MACON.—Finding that the Committee are determined to have the question, and that the only thing that a minority can do is to speak, he should give his sentiments on the subject. The question is intimately connected with our state of finance, and it would not be improper to consider it in that view. In the opinion of the gentleman from Virginia (Mr. LEE) and some others, the borrowing of five or six millions was a trifling thing, we might leave it for our children to pay. This is unjust; if we contract a debt, we ought to pay it, and not leave it to our children. The actions of Government are often compared to those of an individual; and what should we think of a father, who would run in debt, and leave it to his children to pay? But the want of money is not to be regarded. To be sure it is much easier to vote money, than to lay taxes, because the people do not directly feel the vote, but if taxed they must instantly know it; therefore loaning is the way mostly practised. But the time is now come when we begin to feel that our revenue from imports and tonnage is not so great as it was last year. One reason for this is the low price of produce. The value of the exports must in some measure regulate the imports; and the great decrease in value of our produce in Europe, must make the capital employed less. When gentlemen say that the American people will put everything at stake, and make great sacrifices to support their independence, I agree with them; but this is not at stake, and you must convince them, that the expense is necessary. However willing they may be to pay their taxes, their ability can only be in proportion to the price of their produce, and as produce is now at a low price, it will be difficult for many of them to pay.

Notwithstanding the great increase of capital which the gentleman told us of, from eighteen to fifty millions, yet we have been obliged with all this increase to borrow money, and now are told we want somewhere about five millions more this year. We were told that the people are fond of economy, this is true, and I have no doubt they will willingly pay all the taxes that we can convince them are necessary; but ought we not to save all the expenses which are not absolutely necessary, especially when we have a very important money concern to settle with another powerful nation, with whom you may have a great demand; and, if you do, where is the money to satisfy it? I suppose the gentlemen will say another loan; but where is the interest to come from? We cannot make money here by any means but work; labor is our only resource; therefore our money concerns ought to be well husbanded.

Mr. M. said if he could have heard any proof of the argument of gentlemen, or that any good purpose could be obtained by keeping the army, he should have been silent on the subject; but this had not been proved. To calculate any effect that these troops might produce on a distant enemy,

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was wrong; because nations would calculate the strength and resources of nations, and not on any small army. Could it be supposed that any nation would conceive that because we had but twelve or fifteen thousand men in arms, that we had no more than that number, or could raise no more? No, it could not.

If the British, during the war, had conceived that our regular army was all the strength of the country, they would not, perhaps, have so soon given up the contest. We were then obliged to bring our forces to every place of danger; and if any nation should invade our country, we should have again to repel the enemy in the same way. It is most prudent now to save all the money we possibly can, while the danger of an invasion cannot be apprehended, in order to enable us with more ease to meet the enemy; for, if we get ourselves poor while the enemy is at a distance, we shall be obliged to resort to enormous taxes if he should really come to our doors.

[Mr. CHRISTIE, observing the members in general engaged in private conversation, and not only inattentive themselves but preventing other gentlemen hearing, expressed his opinion of their ill behaviour. On the Chairman obtaining order, Mr. MACON proceeded.]

Mr. M. disregarded such conduct, for, said he, we have two privileges, one to speak, the other not to hear; it did not disturb him. The principal dependence, he said, must be in the militia, notwithstanding the little confidence some gentlemen appear to have in them. He did not wish nor intend to take the least honor from the valiant men who were engaged in the brilliant action of the Eutaws, but he could not forget the unrivalled valor of our citizens at the battle of King's Mountain, where there was not a single regular engaged, but men who left their homes on the spur of the moment, and conquered regular troops, which were commanded by an able and experienced officer, so that none escaped either death or capture.

The burden of the expense of regular troops, as well as all other expenses of the Government, Mr. M. said, fell heaviest on the laboring poor. The rich would not feel the weight of taxes, but the poor certainly would. When money came into the Treasury it would not be useful to employ it to support this army. Money is the very sinew of war; if, therefore, we use it unnecessarily in time of peace, it must be wanted if war should ever come. No gentleman could say, that the money spent in supporting this army would be for any serviceable purpose, except it might be so considered just about the cantonments of the troops, where the money will be scattered, and thereby enable the neighborhood to pay their taxes more easily; but, in a general view, it must be considered as wasted. If he had not heard gentlemen of such profound talents speak as to its usefulness, Mr. M. said, he should have thought that no man considered the army of any service whatever.

It had been said that it would be difficult to get another army if it should be wanted some time hence, and you now disband this. The very contrary appeared to Mr. M. to be the fact, for the very

same men would enlist again for the bounty, pay, and clothes, and expect to be again discharged in a few months; and this might also induce others to enlist. But, whenever an army is really wanted, the patriotism of the people will always supply the emergency.

Gentlemen calculated on another loan, but were they certain that we could make another, even at eight per cent., or at any rate? Might not the present state of the commercial world, so replete with large failures, prevent the possibility of one; and suppose the army should be kept up, on the presumption that one will be made, and, when you make the attempt, that you fail, would not the event be disastrous, and what would become of our credit then? It is possible that the derangement of trade in Europe might prevent the possibility of a loan being made there, and whatever might be the patriotism of the people, in such times, they would be obliged to take care at home, and make good their own contracts, before they could venture to lend money to the Government; perhaps our moneyed men would think it imprudent to part with their cash, before they knew the result of these failures.

The gentleman from Virginia certainly furnished an argument against himself when he mentioned the importance of America, in the two wars to which he alluded. It could not be supposed for a moment, that France, if she wished the friendship of this country, would invade it, unless she expected conquest; which would be an illusive idea; indeed she could not suppose any chance for conquest. The fate of an invading enemy marching through the country last war, would undoubtedly be a sufficient warning to any nation not to make the attempt, for if it did, the consequence would be the same, it would be cut off and their vain attempts rendered fruitless.

The gentleman from Delaware asked whether you would send out men not disciplined, nor organized, and without even arms, against men learned in military tactics. Mr. M. said it appeared to him very different from that representation; the knowledge of the use of a gun was universal; he had never seen an American who could not shoot, and that was the principal use of a gun. So much had they a natural kind of practice over Europeans in general. There could not be a doubt but if the young men were got together they would be soldiers immediately, for, understanding the use of arms, they would easily be disciplined. As, therefore, he apprehended no danger, and if there was danger an easy remedy could be applied; and, as it was more proper to save money than to waste it on a useless object, he should vote in favor of the motion.

When Mr. MACON sat down, the Committee rose and had leave to sit again.

RESPECT TO THE MEMORY OF GENERAL WASHINGTON.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

In compliance with the request in one of the resolu-

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tions of Congress, of the twenty-first of December last I transmitted a copy of those resolutions, by my Secretary, Mr. Shaw, to Mrs. Washington, assuring her of the profound respect Congress will ever bear to her person and character; of their condolence in the late afflicting dispensation of Providence; and entreating her assent to the interment of the remains of General GEORGE WASHINGTON, in the manner expressed in the first resolution. As the sentiments of that virtuous lady, not less beloved by this nation than she is at present greatly afflicted, can never be so well expressed as in her own words, I transmit to Congress her original letter.

It would be an attempt of too much delicacy to make any comments upon it; but, there can be no doubt that the nation at large, as well as all the branches of the Government, will be highly gratified by any arrangement which may diminish the sacrifice she makes of her individual feelings.

JOHN ADAMS.

UNITED STATES, January 8, 1800.

The letter referred to in the said Message is as follows:

"MOUNT VERNON, December 31, 1799.

SIR: While I feel, with keenest anguish, the late dispensation of Divine Providence, I cannot be insensible to the mournful tributes of respect and veneration which are paid to the memory of my dear deceased husband; and, as his best services and most anxious wishes were always devoted to the welfare and happiness of his country, to know that they were truly appreciated and gratefully remembered affords no inconsiderable consolation.

Taught, by that great example which I have so long had before me, never to oppose my private wishes to the public will, I must consent to the request made by Congress, which you have had the goodness to transmit to me; and, in doing this, I need not, I cannot, say what a sacrifice of individual feeling I make to a sense of public duty.

With grateful acknowledgments and unfeigned thanks for the personal respect and evidences of condolence expressed by Congress and yourself, I remain, very respectfully, sir, your most obedient, humble servant,

MARTHA WASHINGTON."

The said Message, and letter accompanying the same, were read, and ordered to be referred to the joint committee appointed the nineteenth ultimo, on receipt of the intelligence of the death of General GEORGE WASHINGTON, to prepare and report measures suitable to the occasion.

THURSDAY, January 9.

A petition of Nathaniel Whitaker, of the town of Bath, in the State of Massachusetts, was presented to the House and read, praying that he may be allowed to receive a reasonable part of the proceeds from the sale of a certain vessel engaged in the slave trade, in consideration of the exertions which he made and expenses he incurred in procuring her condemnation, in consequence of a breach of the act, entitled "An act to prohibit the carrying on the slave trade from the United States to any foreign place or country."

Ordered, That the said petition be referred to the Secretary of the Treasury, with instruction to examine the matter thereof, and report the same, with his opinion thereupon, to the House.

REDUCTION OF THE ARMY.

The House again resolved itself into a Committee of the Whole on the motion for a repeal of certain parts of the acts relative to the Army, passed the sixteenth of July, one thousand seven hundred and ninety-eight, and the third of March, one thousand seven hundred and ninety-nine.

Mr. NICHOLSON observed, that when the member from Delaware (Mr. BAYARD) rose yesterday, he informed the Committee that he was not surprised at the introduction of this resolution; he believed it to be a part of a system which for several years had existed, the object of which was to debilitate and degrade the Government of this country; and, believing it to be a part of that system, he was not surprised at the quarter from which it came. When gentlemen undertook to criminate the motives of others, Mr. N. said, it would be well if they would offer some evidence of the purity of their own; and he trusted that the gentleman from Delaware would find considerable difficulty in convincing not only this Committee, but the public at large, that his motives were more pure and patriotic than those of other members who differed with him in opinion.

It must be recollected, Mr. N. said, that when the mover of this resolution called it up for the consideration of the House, he expressed a wish that it might be discussed with temper and moderation, and that the acrimony which had existed too much in former sessions might not make its appearance on the present. The resolution was not proposed for the purpose of inflaming the House, but merely to correct an undue and useless expense. An expression of this wish, Mr. N. said, he did hope would have protected the friends of the resolution from those general imputations which the member from Delaware had thrown out against them; but, instead of a cool and temperate discussion, instead of a calm and dispassionate train of reasoning, the gentleman had indulged himself in a furious invective against his opponents, which might have been more rationally expected from a member of that rapacious and fanatical Government which the honorable member had described as existing beyond the Atlantic, and against which a principal part of his execrations were directed. As I disapprove of this conduct in the gentleman, said Mr. N., I shall endeavor to pursue a different line. While I deliver my opinions, I trust I shall not cease to respect the opinions of others. I am willing to believe that although other gentlemen may pursue a different road from me, yet that they are actuated by motives equally patriotic; that they are using their exertions for the attainment of the same end, although they might think other means the most likely to accomplish it; and that all have in view the same objects—the honor and welfare, the happiness and prosperity of the country.

Nor, Mr. N. said, did he think it necessary to pursue the gentleman through his historical windings relative to the different negotiations which had been attempted with the French Directory, because he did not think that any argument, either for or against the adoption of the resolution, could

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be drawn from that source. He was willing to admit that the conduct of France towards this country had excited one general sentiment of indignation against them in the people of America, and had produced a unanimous zeal for the maintenance of American honor and independence. But what did that prove? Nothing more than that the people were willing to expend their money in support of their rights; but surely it did not go to prove that they were willing to throw away their money in support of an object of useless expense—an army which could not be brought to act against their enemies. If the gentleman had gone on a little farther in the history of this business, he might have shown that of late the French had acted a different part, and were now offering us that “olive branch” which in a moment of frenzy they had trodden under foot. The President of the United States had wisely embraced their offers of accommodation, and had sent Envoys for the purpose of treating with them, which step he believed met with general approbation, with an allowance for a few exceptions only.

The member from Virginia, (Mr. MARSHALL,) who first rose in opposition to this resolution, had taken a position which Mr. N. said he thought had been fully remarked on by a gentleman from Pennsylvania, (Mr. GALLATIN;) but he discovered in the subsequent part of the debate yesterday, that it had produced a powerful effect on the minds of some members, particularly on the gentleman from Pennsylvania, (Mr. HARTLEY.) The position which I refer to, said Mr. N., is, that a middle ground might be taken, and the system might be supported at a less expense. By this, sir, I presume that it was meant that the number of the twelve regiments might be reduced, or that the enlistments might be stopped; an idea which I have heard thrown out by some. This argument or position, whatever it might be called, Mr. N. said, would prove more perhaps than gentlemen were aware of.

He presumed that when the law passed for raising these troops, it was not in the idea of any gentleman to employ them out of the limits of these States; that they were only to be employed to repel an invading enemy, or to check their progress after a landing had been effected. If one or both of these were the objects, it would be well to inquire whether these 10,000 men, if already raised, would be equal to the task allotted to them. He imagined that no gentleman would contend that they were. If at this moment intelligence should be received that there was a French fleet on the coast, with French troops on board, could the Executive of our Government determine on that point of the coast at which our force should concentrate? Surely not. They must rely upon the native strength of the country, the militia of that part against which the attack would be directed, and these troops might afterwards come in to support them. If the French Government was to send an army here it would be an efficient one, calculated to act with vigor, and to do very extensive mischief; it would not be such a one as could be checked by a small force, only 10,000 strong.

From this view of the subject it must be conceded, —and indeed the gentleman from Virginia (Mr. LEE) had conceded the point—that these forces would not be sufficient either to repel an invading enemy, or to check it after the invasion was complete. And yet gentleman argue for the necessity of keeping up some force to repel an invasion, when at the same time they will agree to reduce a force which they acknowledge is already incompetent for the purposes which they themselves wish to keep them for. With what face can gentlemen declare that they are apprehensive of an invasion, when in the same breath they also declare their willingness to reduce a force which they acknowledge is too small to repel an invasion? Can it be possible that they feel these apprehensions, and yet are willing to lessen their means of defence? Sir, said Mr. N., it would be more reasonable to suppose, if gentlemen really believe there is danger of an invasion from France, that they should be anxious to increase, and not diminish, our Military Establishment; but they affect to believe there is danger and yet say they will agree to reduce our strength. The circumstance of these gentlemen being willing to reduce the army must prove one of two things; either that they do not believe there is any danger of invasion, or, if they do believe it, they do not think the army is calculated to defend the country. In either case, therefore, by keeping it up, we incur unnecessary expense, by applying our resources to useless objects, and weaken our finances, without a prospect of deriving any benefit from the measure. If there is no danger of invasion we ought to disband the army, and if we are to continue at war with France, it will enable us to apply more money on such objects as can be brought to operate with more effect against her.

I cannot conceive, sir, said Mr. N., what possible inducements France could have to invade America; I can see no advantages which she could derive from an invasion. Let gentlemen look back to the situation of France at the commencement of her Revolution, and compare it with the present state of things. She then had colonies abroad; the East and West Indies acknowledged her empire; her finances were at least in as good a situation as at present; her enemies were neither so numerous nor so powerful; and yet the consequence has been that her colonies are sacrificed and there is not one of them that she can with any confidence look to, as forming a part of her dominions. Her territory at home has indeed been increased, but her foreign possessions are either conquered by her enemies or are in a state of independence. Can it be possible then that France would send a force across the Atlantic to attack a country which she could have no hope of retaining even if she could conquer it; or is it not more probable, if she had the force to spare, that she would employ it for the purpose of regaining her former possessions? The island of St. Domingo would be worth the trouble and expense of conquest, if it could be afterwards secured; but, sir, I am inclined to believe that the European Powers begin to doubt the policy of foreign dominions.

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Two or three gentlemen who had opposed the motion, Mr. N. said, had drawn what they supposed to be strong arguments, in their favor, from the relative situation of America in the wars of '56 and '76. He took a concise view of the contending Powers in the war of '56, and stated that France, Austria, Russia and Sweden, were arranged in battle against Prussia and England, with her dependencies; America was of course in the scale of Britain. After a war of seven years, in which much blood was shed and much treasure expended, the Treaty of Paris was concluded, which though said by some malcontents in England not to be so favorable to Britain as she had a right to expect, yet, considering that the war commenced in America between the French and English colonies about their respective rights, may fairly be called an advantageous treaty to England, as she had considerable cessions made her on the continent of America. In the war of '76 America took a different position, and was arranged on the side of France. The events of the war, he said, were too well known to require any statement from him, and Britain was crippled not only in her finances, but very much injured in her foreign possessions. All this he was willing to admit arose from the importance of America being thrown into the scale of one or other of the contending Powers. What, Mr. N. asked, are the respective situations of France and Great Britain at the present day? France is contending almost against the whole world; her power and that of Britain are equally balanced; the one victorious by land, the other by sea. If, then, America is thus all important to these rival nations, and her acquisition to either would gain a preponderance to the scale, would it not be the height of madness in France to attempt an invasion of America, when such an act must be attended with the necessary consequence of uniting America to Britain in the contest, of throwing us into the arms of the enemies to France; or, in the language of gentlemen, would not America by this measure be thrown into the scale of Great Britain; and, reasoning from analogy, would not France be subject to disasters similar to those produced by the war of 1756? There could be no doubt that America, would take up arms against France in the event of an invasion, unless indeed, as had been insinuated, there should be a party here strong enough to lay our independence under foot.

The gentleman from Delaware had asked if France had not men enough and ships enough for the purposes of invasion? Mr. N. said he acknowledged France was very populous, that her inhabitants were vastly numerous in her own country, and the acquisition of Belgium made them much more so. It might at the first view be supposed that they had men to spare, but what had been their situation the last campaign? They were not in want of able generals; they were not in want of ammunition or anything else but men, and therefore the consequence was disastrous to her until the latter part of the campaign, when her conscripts went out, and then from her sufficiency of men she conquered. From this it must

appear that she has no men to spare, nor had she, a short time past, enough for her own service. Has she not ships enough? was the next question. She has to be sure her own fleet, and that of Spain in Brest harbor, but does she not want these fleets for other purposes? She requires all she can procure to be a check upon the enormous fleets of Great Britain. There can be no doubt, but that the same wisdom and policy which have hitherto guided the affairs of France, will induce her to keep her fleets at home until opportunity should offer to execute a project which she has never professed to abandon—the invasion of Ireland.

If France ever should have views of invading America, this is the most unlikely of any period whatever. She has at home as much as she can do, and it is very unlikely that she will send a large army and fleet 3,000 miles on an expedition which at best is uncertain, and if its success was certain, her means to protect her acquisition must inevitably fail. If there ever will be such an idea, it will be at a moment of peace, when all Europe are in quiet, and America in no state of preparation against an invasion. But I trust this event will never take place, even in that state of Europe. But how far would this state of alarm carry us? Certainly farther than any gentleman would wish. We should not only now be in a state of preparation, but ever hereafter. If invasion was always to be apprehended, (which it must be, on the same arguments which gentlemen now use,) we must always be ready to meet it, and the continuation of this army is defensible upon the same principles. Our preparation must continue in proportion to our European connexions, because we shall always be proportionably engaged in European contests. We never can form a new connexion with any Power but we shall be more or less engaged in her quarrels. But since we are in this situation, we must abide by the consequences. If then it is necessary to keep up the army at this time, can we look forward to any future time in which we can safely part with it? I can see no moment, said Mr. N., when we shall not be in equal danger, and if in equal danger equal preparation will be contended for. We must, therefore, at all times, whether in peace or war, keep up the armament to repel invasion, not only from France, but every other Power in Europe, and then we shall be compelled to admit the dangerous doctrine of keeping up a standing army in time of peace.

It was said by some gentlemen, that the provision for raising these 10,000 men had already produced a good effect upon France, in changing her conduct towards us. It had been truly stated by a gentleman from Virginia (Mr. NICHOLAS) that the law for raising these troops passed in July '98, and that the overtures for negotiation on the part of France were made in the ensuing August; so that this was no argument. But, independent of this fact, let me beg gentlemen to look back on the conduct of France. At what period has she been alarmed? When has she shrunk from a contest with her enemies? Have preparations of war

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in other countries produced conciliatory propositions on the part of France; or has not her spirit always roused into action in proportion to the martial disposition of her neighbors? Take a view, said Mr. N., of the immense combinations lately formed against her—did they alarm her? Has she not supported herself against a world in arms; and has she not always been more terrible in proportion to the numbers she has had to contend with? Call to mind the preparations made against her by Great Britain in the year 1792; did France then shrink from the contest? No, sir, on the contrary, she anticipated the intentions of Great Britain, and, instead of waiting for acts of hostility against herself, declared war on her own part, in February, 1793, against the most powerful nation in the world. Can it be supposed then that France would be alarmed at our small force of 10,000 men only, at the distance, too, of 3,000 miles across the Atlantic—when we had not the means of transporting them to a situation where they could act against her—when she was not alarmed at preparations infinitely more extensive forming even on her own borders? Surely not, sir; and to this we cannot attribute the pacific disposition of France.

The argument of the gentleman from Delaware, that this measure would be dictated by the Directory, if they could govern our councils, he thought equally unapt with several others. If, Mr. N. said, the Directory wished to weaken the country, and could guide our councils, they would advise not only a continuance of the army, but the raising of more troops. They would advise us to expend our money upon useless objects, thereby to cripple our finances as much as possible, and then indeed we might be an easy prey, when the people were so loaded with taxes and debts that they were indifferent as to what Government they lived under. On the other hand, the wise step they thought would be to husband our resources, to let our people live easy and happy, to attach them to the Government; to make no new loans, to impose no new taxes, and then we should always be prepared for war when either the honor or interest of the country required it.

Upon the whole, Mr. N. said, in every view he could give this subject, it appeared to him that by keeping up this army we incurred a useless expense, which the country ought to get clear of as soon as possible; and more particularly so, when money is wanted for other purposes. If, said he, I could believe that we were in danger from any foreign Power whatever; if for a moment I could suppose that France meditated an attack upon our independence, I would go as far in the expenditure both of public and private property as any gentleman in this House; I would join heart and hand in raising forces and equipping fleets. With the gentleman from Delaware, I should be ready to exclaim, "millions for defence, but not a cent for tribute!" Not believing so, I shall give my hearty assent to the resolution.

Mr. SHEPARD said, he did not rise with a view of lengthening the debate, nor did he intend to follow the gentlemen who favored the resolution,

but he could not avoid being struck with one position they had taken with respect to the expense: he therefore should make a few observations on what had fallen from them on that subject. The gentlemen had taken exceedingly broad ground in the defence of the resolution, and had advanced many strange positions, but that respecting our finances was the most extraordinary—that the United States were in such a situation as to be unable to support the small army contemplated! He thought this could not require an answer; he therefore should proceed to another argument which has been used, which was, that the army was not wanted, for the militia were a competent defence in case of invasion, or whatever could take place. This had been so ably spoken to, that he did not flatter himself to think he could add anything thereto, but he should make an observation or two.

It had been said that the expense was useless, and if an army should be necessary at any time it could be raised. But did gentlemen consider the expense of raising men? Each of these 3,500 men had received at least twelve dollars bounty; to disband them would be to lose that money entirely, besides discipline and clothing. Should it be necessary to raise another army a short time hence, the whole of that money must be again provided. Mr. S. said he would place as much dependence as any gentleman within those walls on the valor of the militia, and would pay them every respect due to their services, but, if he could possibly call gentlemen's attention to realize the situation of Massachusetts in 1775, when attacked by the English, he thought they would not conceive their services against a well disciplined army to be so great. Few gentlemen ever witnessed such a scene of consternation and general distress as pervaded the whole country. Murder, plunder, and general devastation, were spread through the country. Every man who possessed arms was called out, but though their number was great, yet, having no general officer to lead them, vast numbers of lives were thrown away, and only for the want of a few well disciplined troops for them to rally round, and lead the army.

Very material advantages, Mr. S. thought, would arise from a continuation of the army at this time. Our very independence is concerned. And shall we value five millions of dollars at as high a rate as our independence? He trusted not. In addition to that inestimable blessing, it is possible that the lives of many brave men and officers may be thrown away for want of expending a little money; for very little would be necessary to keep these men for a few months. Let us pursue the path we have taken and keep our defensive system in the same situation, if we wish for an honorable peace. Hold fast that which is good, and I believe we shall be saved. But if, on the other hand, we recede from these measures, when they are wanted we shall not have them, and, for want of well applied strength, numbers may perish who would otherwise have lived. If, therefore, we study humanity, or policy, or prosperity and peace, let us, with a noble unanimity, reject the motion, which

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will make a good impression of our strength on our enemies.

Mr. R. WILLIAMS said, that if the gentleman who had just sat down (Mr. SHEPARD) thought there would be a unanimous vote, he must rely very much on the force of what he had advanced, for he certainly had the best proofs to the contrary. He said it had been observed that those gentlemen who were in favor of the general system of defence, ought to vote for a continuation of the army as a part of it; he did not think so, because gentlemen who then viewed the measure as necessary, might now see such a change in affairs as to make them alter their opinions. However, he would say, were he one of those in favor of that system, he saw nothing which would induce him to alter his opinion, for he saw no necessity at that time to warrant raising this army, nor at this time to keep it up.

By attending to the arguments of gentlemen opposed to the resolutions on your table, it would appear, that it went to the destruction of the whole system of defence. It could not be viewed in that light by an impartial mind. If it were so, Mr W. said, he should hesitate before he voted in favor of it: the resolution, he said, applied to that system, was only to make a deduction of the variation in it; trifling as it related to system, but important in itself. Would gentlemen pretend to say that no change in public measures ought to be made? If so, the House ought to be careful how they proceeded. In order to properly appreciate the arguments against the resolution, it might not be amiss to take notice of the arguments which were made use of to carry this law in the House when it was passed. Invasion was then the cry, but near two years had elapsed and no invasion had been attempted, nor, he believed, thought of.

Internal disturbances were likewise apprehended, but no such thing had appeared, worth notice; but it was necessary to keep up the alarm. After a former negotiation with France had failed to accommodate differences, invasion was supposed to be the intention of France. These steps were therefore taken to guard against it. No invading foe has been heard of. A negotiation is now again set on foot, the same alarm is spread, but we are not to believe those gentlemen's apprehensions are well founded; therefore we will not trust to them; they have failed once, they may fail again. We have the benefit of experience for our guide, which teaches the apprehensions of an invasion to be ill-founded. The only argument urged by those who opposed the resolution, which had any weight with me, said Mr. W.—and I declare I have given the subject all the consideration in my power—was the possibility of this measure having an influence on the negotiation now pending with France; and, inasmuch as I cannot, on mature reflection, think that it would have any effect of that kind, I cannot think it necessary to keep up the army, and therefore shall vote for the resolution.

How is it probable that it could affect or injure the pending negotiation with France? Sir, I think it would have a very contrary tendency. It appears to me it would rather promote the negotiation.

It would rather put it in the power of our Envoys to say to the French Government, "You see what our Government is determined to do; when you will not give us an audience, and continue hostile, they are determined to defend; but when you show a contrary disposition they immediately relax, and are disposed to meet you." This appears to me to be the language of reason. Farther, it would prove that on an emergency, or when we chose, we could get an army, but when that necessity is over, we can say to them "return to your homes and employments, we can do without you." This, and not an unfavorable impression, it would have, if any.

But it is stated an influence would be wrought another way, that it would show to that Government that we are not able to keep up an army; that our resources are inadequate to our wants, on account of which we are obliged to disband the troops. How, Mr. Chairman, can such an inference, with propriety, be drawn? Because I do not choose to go in debt, though I am able, shall it be said I am not able? As with an individual so with a nation. We choose not to borrow money; will France therefore say we cannot? They will draw no such conclusions. No, they will rather admire our prudence in avoiding unnecessary expense, and say, here is a nation temperate in its operations, firm in its principles, and rich in its resources, and not to be driven into ruinous measures by the threats of any nation.

But it is said that this army must be kept up for what may happen. I ask whether the same argument may not always hold good, with respect to any nation, between whom and us there may be but little friendship. When is the moment in which we might not be exposed to this danger? This argument will always apply to keep up a standing force in this country, greater than we ought to bear. When gentlemen use these arguments, I take it for granted this is the force they mean to keep upon a permanent establishment, whatever name they may give it; for I can see no bounds to an argument of the kind, or line at which we are to stop; it goes, sir, too far to answer the purpose intended.

We are asked, sir, whether we have forgotten the insult offered to our national dignity by France? We are asked, too, by the honorable member (Mr. MARSHALL) who from his situation must have felt the indignity more sensibly than any other member of this committee. But I hope no gentleman will be disposed to resent an insult offered farther than the interest and policy of the United States calls for. For, however much I might be disposed to individually resent an insult, the effects of which could only attach to myself, yet it is a very different thing when it is to affect the lives and happiness of thousands as well as a whole nation. And, sir, although I hope the insults offered our nation in our Commissioners, by the French Government, will never be forgotten, I cannot agree to carry my resentment so far as to keep up such extraordinary expenses and systems when there is no real danger.

But we are told, by the honorable member from

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Delaware, (Mr. BAYARD,) that this resolution is the first step to a system which has been long and uniformly pursued by a certain party in this House, to debilitate the Government in all its systems of defence, and there will be an attempt to renew treaties and revive commerce. Sir, are these the things that are to make us shudder? Is it so disagreeable to renew friendship, commerce, and treaties, with any nation whatever, that we are called upon to dread it? I am ready to acknowledge that no argument I have heard, would sooner make me adopt the resolution, or any other which might produce all these much to be lamented facts, by that gentleman. I must confess if they have a terrific appearance to him, they have not to me. This same gentleman says, there is a party who wish to infuse into the minds of the people an opinion, that there is another party who wish to establish monarchy in this country. Sir, I believe, if an opinion of that kind has been entertained, it has been founded on the tendency of such measures as have been taken, and which have led other countries into that evil, for it is proper to calculate that similar causes will produce similar effects. If blame can rest upon such an opinion I am willing to take my part of it. But that men should not be permitted to differ in opinions, and that they cannot speak of certain measures, as tending to certain objects, without being charged as a party with implicating the conduct of those who differ from them, is strange.

The conduct of the militia in the last war with Great Britain and the spirit of '76 have been called up. Mr. Chairman, what has the spirit of '76 to do with the present question? How dissimilar our situation! Are we engaged in a Continental war? Is the enemy in our land, burning and destroying our towns, and scattering our villages? That is not our situation at present. Gentlemen say we could then have an army, but it is not the case now. I believe if our situation was one tenth as bad now, as then, we would soon have an army; and no member on this floor would think ten times the sum called for mispent, for a prize so valuable as our independence. I agree with gentlemen fully in the principle, but not in the application. If our independence was at stake, the money it would require for our security ought only to be a secondary consideration.

We ought to calculate upon expense in proportion to the object in view. If we are ever invaded we must defend our country, and the money it may cost must be out of the question; because, if we lose our country we lose our all, and nothing can come in competition. I do not therefore judge of this measure entirely on the score of expense, but that of its utility. It is said by the honorable member from Virginia (Mr. LEE) that America, with half the ability, supported a much larger force in her revolutionary war for her protection. She did so—she afforded all that was necessary for the object, and would do it again. But God forbid there ever should be another army in this country, equally useful, and paid off in the same manner, at the rate of two and three shillings in the pound? This, sir, is the way that army was paid. Sir, I hope

we have men enough who would view their independence and liberties as sufficient compensation for them to repel any invasion; these are considerations that would call forth the patriotism of numbers whom money would not. But our present situation calls for no such sacrifices; we have no occasion for such noble exertions, or they would be made. It is not unworthy of notice that whatever measures are brought forward, their adoption and continuance are constantly urged by certain gentlemen, on some point of expediency or policy for the time present, notwithstanding any change in our affairs, and the true object and real state of things kept out of sight. But the time is fast approaching when it can no longer be done; our real situation must appear. Our Government has been regularly progressing in the accumulation of a public debt, at the same time that it is constantly imposing new taxes upon the people, and yet we are told not to mind the expense, we can borrow.

When the necessity of an expense is so far-fetched as gentlemen have been obliged to resort to in the present instance—no less nor more than bare apprehension and conjecture—it cannot be said that a motion to repeal such a useless expense is not properly made, and that the subject requires serious consideration. I wish to know for what these men are to be called forth. If it can appear necessary, the expense is unworthy of notice. I defy the proof of that necessity, and shall continue opposed unless convinced of their use. From every point of view, therefore, in which it can be made to appear, I continue in the opinion I first entertained; and seeing no necessity for the troops at this time, nor prospect of their future use, I consider them an useless expense, and shall vote for the resolution.

Mr. RANDOLPH said, notwithstanding this question had occupied so much time in the discussion, he felt disposed to give the little aid in his power to a measure of whose wisdom he was firmly convinced, and in the success of which he knew his constituents to be deeply interested. He did not flatter himself with the hope of throwing much new light upon the subject, but he felt it to be his duty to deliver their sentiments upon it, and from that duty he trusted he should not shrink. Unaccustomed to public debate, the Committee would not be surprised at his inability to pursue the arguments of gentlemen through the intricate labyrinth in which they had been involved; yet, in such statements as he might make of them, he should endeavor to give them a fair interpretation, and not to twist them to a meaning which it was not intended they should bear.

The gentleman from Virginia, (Mr. MARSHALL,) who first rose in opposition to the resolution, has left this subject in a state in which I did not expect to find it when coming out of his hands. Sir, I entertain a respect as high as that of any member upon this floor for the talents of that gentleman; I have witnessed their exertion on a variety of occasions with singular delight; his ingenious researches and logical deductions have often commanded my admiration. Yet he will permit me to say that he has on this occasion advanced nothing which disproves the propriety of adopting

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the measure before you ; and as he has been unable to produce any arguments of weight upon the subject, I shall take it for granted that none can be adduced. He has alleged nothing specific ; his observations carry no conviction with them, they tend only to excite alarm and doubt. This is a situation in which that gentleman is not accustomed to leave the minds of his audience. He has affirmed that the adoption of the resolution of my colleague would have a deadly influence upon our pending negotiation with France. If, indeed, sir, I can be convinced that such will be its effect, I will give it a decided opposition. I would even go farther. If gentlemen would convince me that any addition to our military force would eventually secure an honorable issue to that negotiation, so highly do I value the restoration of that harmony which heretofore subsisted between the Republics ; so completely in my opinion are the best interests of my country involved in a successful termination of the mission to that country, that I will even assent, reluctant as I am to such measures, to double our present establishment. But I must have some more substantial grounds of action than mere conjecture.

But I oppose the establishment of a standing army in this country, not only as a useless and enormous expense, but upon the ground of the Constitution. The spirit of that instrument and the genius of a free people are equally hostile to this dangerous institution, which ought to be resorted to (if at all) only in extreme cases of difficulty and danger. Yet let it be remembered that usage, that immemorial custom, is paramount in every written obligation, and let us beware of ingrafting this abuse upon our Constitution. A people who mean to continue free must be prepared to meet danger in person ; not to rely upon the fallacious protection of mercenary armies. The gentleman from Virginia spoke of a middle way to be adopted, which should reconcile all parties, but he has not specified anything. May I be permitted to name a measure which will completely protect us from every fear of danger, however remote ? Meet the wishes of the people, bestow a part of the annual millions which are levied upon them, to the purpose of arming and organizing the militia. If ever a hostile nation should be rash enough to attempt an invasion of these States, it is upon the militia that we must rely for the defence of their own rights and everything that is dear to man. The word may be grating to the ears of some gentlemen, but, in that event, we must rely upon requisition. No country, unpossessed of the pecuniary resources of Britain, can afford (nor can she do it consistently with her public happiness) to keep up a mercenary army adequate to her defence. France, superior in resources to every country of the world but England, and second to her only in those of a pecuniary nature, has been obliged to abandon that system, and resort to requisitions of militia. Such a stress is however laid upon these twelve regiments by some, that our safety, nay, even our independence, it seems, hangs upon their existence. When gentlemen spoke of them as of such primary importance to our security from

foreign invasion, I did expect that they would have proved their competency to the proposed object ; that they would have satisfied us of the practicability of defending our extensive coast with an handful of men, not exceeding 4,000, scattered over the interior country ; at least, that they would have shown that an invasion of this country by France was among probable events. I shall not attempt to answer arguments drawn from a supposed analogy between our country and Holland, Switzerland, &c., when no such analogy exists ; nor do I think that the Administration of our Government have any reason to be obliged to the member from Delaware for suggesting that these troops may be necessary to overawe a hostile faction, who (like the oppressed subjects of the Batavian and Swiss aristocracies, anxious for any change, as being well assured that none would be more intolerable than their ancient servitude,) might be disposed to join the standard of an invading foe. Insinuations that these troops are to be used, on whatever pretext, against our own people, will not reconcile me to the measure. Gentlemen have called to mind our situation in 1775, and compared it with that of the present day. Where, sir, is the similitude ? We were then weak, divided, destitute of resources, and of the power of calling into action such as we possessed ; the enemy was in our bosom, his troops in possession of our important holds ; the minds of men in a great degree unprepared for a bold assertion of reason and right, against the pretensions of law and power ; our manly resistance branded with the epithets of sedition and rebellion. Will gentlemen undertake to say that such is our present state of preparation, or that similar results are to be expected ? I did hope, sir, that our remote distance from the great disturbers of human repose, would have permitted us to be exempted from those perpetual alarms, those armings and counter-armings, which have raised the national debt of Britain to its present astonishing amount, and which sends her laborers supperless to bed. This is the mischief which poisons the happiness of that country, of all others perhaps the most blessed in point of soil, climate, and position.

I am friendly to the resolution on your table, sir, on another ground. I believe that it will remove a considerable cause of irritation. The raising of these troops has had a deleterious effect upon the public temper. The military parade which meets the eye in almost every direction excites the gall of our citizens ; they feel a just indignation at the sight of loungers, who live upon the public, who consume the fruits of their honest industry, under the pretext of protecting them from a foreign yoke. They put no confidence, sir, in the protection of a handful of ragamuffins ; they know that when danger comes they must meet it, and they only ask arms at your hands. Gentlemen have talked of organizing the militia ; I call upon them to make good what they have said. Instead of reducing this force, I could wish to see the *whole* of it, reprobated as it is by our citizens, abandoned, and the defence of the country placed in proper hands, those of the people.

I repeat, that if we value our Constitution, our

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peace, and public welfare, in this way we must prepare for war. By arming our people, by equipping every able-bodied man for war, you present the most terrible front to an invading foe. Our citizens are confident in their strength; they know themselves to be capable of protecting their own property and liberties; they do not want their noses held to the grindstone to pay protectors; the surpluse of their labor they wish to employ in increasing their property, in providing for their offspring—that numerous and increasing population of which gentlemen have said so much; they do not wish to have money forced out of their pockets to pay hirelings, under the stale pretext of keeping off French invasion.

But, we are asked, how we are to maintain our independence? The desultory observations which I have made are in part an answer. But the question is not the preservation of our independence. It is simply, whether we will consent to a reduction of an expensive establishment, hostile to our liberties—which cannot be brought to act against the enemy, and which, even in case of invasion, would make but a paltry part of our defence—and appropriate any saving of the public expenditure to objects of real utility. But we are told that the consistency and wisdom of our councils will be called in question, by thus retracing the steps which former Legislatures have taken. Sir, I will make some sacrifice to preserve the reputation of our councils, but I must do it at the expense of duty. If our Administration have heretofore expended the public money upon improper objects, I cannot consent to continue such measures in order to bolster up their consistency. I am willing to give them all credit where they deserve it, but not to preserve their reputation at the public expense.

The finances of the country merit our most serious attention; in my mind their situation excites a just alarm. If, indeed, the command of money by indirect methods were attended with no inconvenience; if, for the payment of every shilling which was borrowed, every foot of ground in the Union did not stand pledged, then indeed a resort to the favorite resources might not be so unpleasant. But, sir, our people view this measure with a jealous eye; they abhor the principle, they know how deceitful is the aid which it affords; they dread its consequences. Whether they are warranted in these impressions, I leave gentlemen to determine. A twenty years peace, a ten years operation of this efficient Government—what is the consequence? Your debt diminished by hundreds of thousands and increased by millions. This debt, which was contracted during the Revolutionary war, we know to be the price of our independence; we pay it without a murmur. We could wish, sir, that the revenues raised for that purpose could have been poured into the lap of the defenders of their country, rather than the coffers of speculators; but we cheerfully pay our obligations to the holders of them; we ask no questions. We have however expected to see that debt diminished, or at least the public expenditure reduced within the limits of the revenue, yet are we disappointed.

The member from Virginia (Mr. MARSHALL)

says that our economy is false; that the pay of these regiments for a few months (until we hear from our Commissioners in Paris) ought not to be put in competition with the success of that mission. Sir, in my opinion nothing save the honor and welfare of our country ought to be put in competition with that most desirable object. I repeat that if I thought this resolution tended to throw cold water upon that negotiation, I would abandon it without hesitation; our best interests are involved in its successful issue, and they are not to be weighed down by an expense much larger than what is incurred by this establishment.

But should that negotiation fail, we are asked if we shall then be prepared to abandon this defence. Sir, I will say for myself, it is impossible for this country (much as may be *squeezed* from the people) to support a mercenary force adequate to its protection against a powerful invading foe. The country must find protection in her sons; you must look for this invaluable good to its proper source, where you are secure against disappointment, the people. A gentleman [Mr. LEE] stated yesterday that our finances were in a prosperous condition, that the deficit was trifling, and, if much greater, ought not to demand our regard. Does it not create surprise to hear gentlemen put a smile of contempt on a deficit of five millions in a revenue of nine, and an additional increase of debt to that amount? Surely, sir, they must dissemble their feelings when they make so light of it. If our expenses were confined to such objects as necessity dictated, our people would pay them with cheerfulness. But, sir, they will justly murmur at this idle waste of their treasure.

This Committee has been told, Mr. Chairman, that the effect of this resolution goes to the prostrating our country, defenceless, at the feet of the Directory. It is, sir, by a cultivation of your militia alone that you can always be prepared for every species of attack. When citizen and soldier shall be synonymous terms, then will you be safe. When gentlemen attempt to alarm us with foreign danger, they will permit me to advert to those of a domestic and more serious nature; they will suffer me to warn them against standing armies—against destroying the military spirit of the citizen, by cultivating it only in the soldier by profession; against an institution which has wrought the downfall of every free State, and rivetted the fetters of despotism; which must produce in this country effects similar to those which it has brought about in others; unless, indeed, gentlemen suppose that the same moral and physical causes which govern the Eastern world are here suspended in their operations.

Believing this resolution to be a wise measure; in every respect to be a prudent retrenchment of unnecessary and enormous expense; entertaining a strong and well founded hostility to mercenary armies, upon every possible consideration; persuaded that it is time to reduce our expenditure within the bounds of our income, I have offered, among my desultory remarks, some of the principal causes of my support to the measure under your consideration.

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Mr. OTIS said, the progress of the debate had convinced him that the opinion he entertained at first was accurate—that much new light would not be given to this question after the first day of the discussion. Though he despaired of adding to the information already possessed by the Committee, he might possibly suggest some ideas which had not been advanced, and at the same time would attempt to enforce the arguments used by his friends in opposition to the resolution.

In the course of the general view he should take of the subject, Mr. O. said, he should animadvert on some of the observations of the gentleman from Virginia, who had just sat down, (Mr. RANDOLPH.) That gentleman had with great modesty been pleased to say that his arguments had been desultory. On this remark, said Mr. O., I will not join issue with that gentleman, but when he further says his arguments have been extremely weak, I much fear that some of the defenders of their country, in whose hearing they were uttered, will think that a part of them at least have been extremely strong.

The principal objection urged, Mr. Chairman, against the army now proposed to be disbanded, is not the absolute want of money, and insufficiency of our resources. Gentlemen do not say that we cannot borrow money, or that we cannot invent taxes, but that loans and taxes will be burdensome to the people. Sir, I would ask those gentlemen what right the people of this country have to expect to escape the conflagration in which the other three quarters of the globe are involved, without some pains and expense to erect barriers against its destructive progress? Are we chosen by heaven to live in a sequestered corner of the world, exempt from the troubles and distresses of other nations, to grow rich by their spoils, and to fatten on their misfortunes, without any additional burdens? While the Old World is wasted by fire and sword, while cities are sacked and unpeopled, their fields made desolate, and their commerce destroyed, are we privileged to count in quiet the gains of the counting-house and the produce of our acres, without deduction or alloy? Do we presume that the Atlantic would open and swallow up an invading army, as the host of Pharaoh was swallowed up in the Red Sea? Confident as I am in the justice of our cause, I do not expect the assistance of miracles for our protection. We must rely, under Heaven, upon the arm of flesh. If we do not, if we neglect to make necessary preparation against natural accidents, we may be overwhelmed in the common fate of those nations, which, lulled into a delusive security, have lost their liberties, and perished in the general wreck of the social union.

Sir, I fear that our long enjoyment of peace has led gentlemen to think that peace belongs to us by right of prescription, and that we have only to remind our souls that we have goods laid up for many years, and may eat, drink, and be merry. But, to gentlemen who reason thus, the voice of experience proclaims, in solemn accents, that this very year, for aught we know, our liberties may be required at our hands? Sir, we are told that the present establishment shows an annual deficit of

five millions of dollars. But suppose, for the sake of the argument, the calculation to be just and the establishment certainly necessary; what are five millions of dollars? Or suppose that the price of our safety and independence should be twenty, forty, or, if you please, eighty millions of dollars, in addition to the present debt. This indeed, sir, is money—as M. TALLEYRAND observed—is a great deal of money; but money is cheaper than blood, it is less precious than honor. Who would hesitate, between the evils of doubling the national debt or relinquishing the rights of an independent nation? But, sir, there is no probability that we shall be called to make such a sacrifice. Mr. Chairman, I once more entreat gentlemen who deem the condition of the United States to be unprosperous, to look upon the picture of Europe, to which their attention has so often been called. Ask, sir, if you please, the calculating Dutchman, the hardy Swiss, the soft Italian, the haughty Spaniard—nay, if you please, the wretched Egyptian—ask them at what price they would redeem their ancient rights and privileges; rights and privileges indeed far inferior to those enjoyed by our fellow citizens. Or, sir, reverse the picture, and inquire of the British yeomanry, of the peasants, who, as the gentleman from Virginia says, go supperless to bed, whether they would exchange their burdens, great as they are—their conscious pride and satisfaction, the result at once of a sense of duty and of safety, for all the advantages reaped by those whom I have just enumerated? They, sir, all of them at least who are not abject or corrupt, will agree with me, that liberty cannot be estimated by money. Sir, when we contemplate the resources of this country, either in a general or more particular view, there does not appear a sufficient occasion for the deplorable statement exhibited by gentlemen. Let us for our comfort recur to a period when, without half our present population, or a tenth part of our riches, when, destitute of Government and commerce, we were involved in a struggle of seven years with a powerful nation, and under all these disadvantages escaped with a debt of eighty million of dollars—a sum less than the expenses of that nation for one year. We now enjoy a regular and efficient Government, the agricultural and commercial capital of the country is greatly augmented, we have sixty millions of exports, nine hundred thousand tons of shipping, moneyed institutions to facilitate the operations of Government, and experience and confidence on our side. Why then will gentlemen persist in representing our finances in a low and degraded state? Why exhibit statements which diminish our weight and consequence in the eyes of other nations? I perceive no propriety or good policy in these measures. Again, sir, complaints are made that the Government cannot borrow money at a less interest than 8 per cent. But the Government borrows as cheap as the individual. It borrows at the market rate of interest, and if that rate is high, it is because the demand for money for lucrative objects is also great—it is a proof that the country is advancing in prosperity.

It has been intimated, in order to alarm the

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Committee, that the deficiency of our revenue compared with our expenditure is greater than that of Great Britain in a time of peace—that our revenues amount to eight millions, and our expenses to thirteen millions, so that we must borrow two-thirds of the amount of the revenue. But, sir, to say nothing of additional revenues which may be provided, let it be remembered that when the land tax is received the revenue will be nearer ten millions than eight; and that the Military Establishment may be so modified, by suspending the recruiting service, that a million, or perhaps a million and a half, may be saved in the current year. And further, if the negotiation with France succeeds, that an additional saving will be made, amounting in all to two millions and a half at least. So that in the next year, if we should beat peace, additional revenues or a loan for about two millions of dollars only would be required. And is this a state of things to create terror or alarm? Sir, as an allusion has been made to the debt of Great Britain, it may not be amiss to remark that that nation, which undoubtedly obtains money upon easier terms than any nation in the world, has not in this respect so great an advantage over the United States as may at first be imagined. She borrows nominally at a much less rate of interest; yet, when we take into view all the gratuities and expenses attending her loans, the disparity is not very great. I have a document of undoubted authority, which shows that between the years 1793 and 1799, the whole amount of money borrowed by Great Britain was - - - £117,654,225
For which she was obliged to create a capital of - - - 160,929,739
And the total annual charge on the money borrowed was - - - 7,931,215
Which is more than seven per cent. on the whole.

Mr. Chairman, too much has been said upon the subject of our finances, in the discussion of this question. The inquiry ought to be, simply, Is it prudent and essential to the true interests of the country to maintain the establishment? If so, we must sustain the expense of it. But if otherwise, it should be relinquished, however adequate our resources may be to the support of it. Is it then expedient under existing circumstances of invasion, which has occupied so much time and attention? I readily confess that I do not consider this danger so imminent as at the time when the augmentation of the army was authorized by law. At that period, the whole seacoast of France was lined with soldiers, called in the gasconading language of the country, "The Army of England." These troops meditated a descent somewhere. They were actually embarked aboard a powerful squadron, and instead of coming hither they proceeded on a crusade to Egypt and the Holy Land. But sir, who could have foretold the destination of that fleet and army? I do most solemnly declare if at that time my opinion had been requested as to the probability of their destination, either for Louisiana or Egypt, I should have considered the former the most probable; and I believe farther, that but for the length of the gauntlet which they

must have run, it must have appeared the most tempting and promising expedition of the two. We also knew at that time that they had actually threatened our Envoys with danger on that quarter. We have reason to believe Louisiana has been ceded to France, and we know, since, that Carnot, the ex-Director, in a book written in his own vindication, inculcates his colleagues for not insisting upon the cession; alleging, as a reason, the control and influence which France would have thereby obtained in the United States. Under these circumstances, I thought the measures adopted by Congress necessary—I believe a great majority of the American people were of the same opinion.

Since that time, events have happened which render France less able to invade this country, if such is her disposition. Her fleets have been crippled or destroyed, and her armies find ample employment upon the continent of Europe. But who can say, that this danger, though diminished, is so entirely passed that we should remain in a situation utterly defenceless? That, because it is not a pressing and immediate danger this year, it is not possible and will not be practicable the next year? We know not, sir, the state of affairs which a general pacification of the Continent might develop. We know not how soon it may happen. Perhaps even France and Great Britain may be at peace this Winter. Probably some of the Spanish possessions in America may yet be ceded to the French Republic. These contingencies justify the maintenance of a small force. To disarm would be to provoke and encourage attempts, which an attitude of readiness and resistance would altogether prevent.

It has been said that this army was not wanted for garrison duty. The permanent establishment is 5,400 men, including non-commissioned officers. These cannot be considered sufficient in a time of danger to garrison all our ports, harbors, and fortifications, and to protect the coast and frontiers from Georgia to Maine, and from the Atlantic to the Lake of the Woods. As we know not the probable point of attack, we ought to have a few disciplined troops always ready to fly to the post of danger, to act with the militia; for it is impossible to protect our vast coast everywhere, and in every point, by a regular force.

But another and more forcible reason which operates upon me to desire this army to be preserved is, that of all arts and sciences now understood and cultivated in Europe at the present day, the military art has attained to the most considerable degree of perfection: on the contrary, I believe that of the arts and sciences known in America, the art of war is the least understood. Considering this vast disproportion, then, ought we not to have men who should learn the rudiments of discipline, who should serve for the germ of an army at least, so as to be ready when called out by requisition or by any other means? Certainly these twelve regiments, though not alone to be relied upon, in the event of war, may yet be of high importance in this view of the subject.

Among the observations made by the gentleman

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from Virginia (Mr. RANDOLPH) he has urged an argument which, however ingenious, is certainly not new. He considers standing armies as opposed to the spirit of the Constitution and dangerous to liberty.

This alarm relative to standing armies has been at least rung a thousand times a year since the first British army was landed in this country; and, if the objection is well founded, it goes to the destruction of the old regiments as well as of the new, and we must have immediate recourse to militia for every ordinary object. That gentleman further contends that this country cannot be defended by a standing army, but requires a force raised by requisition. Wherein lies the difference between a standing army and a force raised for a limited time, by requisition? The gentleman may distinguish the first by the hard names of ragamuffins and mercenaries, if he thinks proper, I shall not dispute with him about terms. Yet, why troops raised according to his ideas of requisition, who are to be organized, disciplined, and compelled into service, to receive pay and march wherever they are ordered, are less ragamuffins and mercenaries than troops raised in any other mode, is for that gentleman to explain. Sir, far be it from me to question the importance of the great national resource, the militia. I well know they are the palladium of the country, the fund on which we must rely for soldiers and defence.

But I contend that militia in itself is calculated only for sudden emergencies. They will fight bravely while they continue in the field. They will resist an invading army, but they will not endure a series of campaigns. I call on gentlemen to produce an instance wherein militia have been alone equal to cope with an army that had once got a footing in a country. Remember, sir, the Swiss militia, the bravest in the world, animated by the best principles, fighting for all that was dear to them, urged on by their wives and children, armed with weapons that were furnished by despair, and dying at their sides. Yet these brave but undisciplined men were defeated and massacred, and the liberties of their country were buried in the same tomb. The gentleman further considers that wives and children are a great incentive to the bravery of the militia. This is unquestionable; but are the "mercenaries" of which the gentleman speaks precluded from the advantage of having wives and children, or will the incitement to defend them be less in one case than in the other? One thing I acknowledge, that militia when called out are sooner desirous of going home to their wives and children than regular troops—at least they cannot be prevented from it; and this is another circumstance which disqualifies them for long service. Again, the gentleman professes himself willing to apply the moneys that are requisite for the support of this army to the organization of the militia. But suppose, with the gentleman, that we have not the money—that we cannot obtain it without squeezing it from our needy constituents. He will be content to squeeze them for the sake of the militia, but not of the regular army. Sir, let us not consent to be taught by experience. Let our militia

be well armed and disciplined—let us repose all due confidence in their fidelity and courage. But let us have at least a few men in the country to act with them in perilous conjunctures, to encourage and to instruct them.

I am sorry, Mr. Chairman, to hear that gentleman make use of the word *squeeze*, when applied to taxation. It was the only inelegant word which escaped him, and it was certainly misapplied. Sir, it may be very proper to apply this word to the impositions of despots and arbitrary Governments; but to talk of *squeezing* the people in our happy country, and under our mild Government, is certainly to speak without accuracy. When the gentleman considers that at the same time he and I squeeze our constituents, we also squeeze ourselves, I think the asperity with which he pronounced that expression will be mollified. I also regret that the gentleman has discovered the gall of the people of the country moved by the sight of the Federal uniform. I have not witnessed a similar effect. I candidly confess that I do not believe a large military establishment to be a favorite project either with the people or in this House. I am aware that the apprehensions and jealousies of the people have been roused, and are now habitual, upon the subject of standing armies in times of peace. But surely these alarms must yield to good sense, to the consideration that the existence of this army is limited with the duration of our dispute and controversies with France, and becomes disbanded by the law which creates it when these shall be terminated. Surely, then, there can be no reason for any part of the community to regard unfavorably the brave men who have engaged their services for its defence. It was observed by another gentleman from Virginia, (Mr. NICHOLAS,) that if any original proposition to raise this army were now before us, it would not be adopted, and thence he infers that many who will now vote for maintaining it, can have no conviction of its necessity. Sir, it is very possible that if the country had not already advanced to these troops a hundred thousand dollars, for bounty, if they had not received their clothing, we might be willing to defer the raising of them for a few months. It is very possible that if a corps of officers had not been collected from their occupations, they might have still remained at home, under present circumstances. But does it follow that we should throw away all the benefit and expense of this bounty and clothing, when the men may be wanted in three months; or can we expect that these officers, if discharged, will again fly to our standard with the same alacrity?

Mr. Chairman, my strongest objection to the resolution, is the time chosen by the gentleman for offering it to the House. It is my duty to wish that our Envoys to the French Republic may avail themselves in their negotiation of the ostensible union of sentiment prevailing among the people, and of all the advantages which they carried with them to maintain the rights and honor of this country. When your late Envoys left this country they left it united in one common sentiment, except that of reluctance to come to an open

rupture with France. The Directory presumed upon the appearance of division in our public councils, they calculated upon their party among the people, and they rejected your Ministers with insult and indignity. This conduct excited a general spirit of resentment, and induced the Government to prepare the means of resistance. The demonstration of the public abhorrence and indignation was loud and universal; and the consequence was an invitation to renew your negotiation. We have been told, indeed, that this invitation must not be imputed to the institution of this army, for that the act for raising it passed in July, and could not be known in August, when it is said the overtures were made by the Directory. But, sir, this law was the last of a series of measures, some of which have been adopted, and must have been known to the Directory before the month of August. In April, an act passed to increase the Military Establishment by a regiment of artillery, and to establish the Naval Department; in May, the acts for the defence of ports and harbors, and for the protection of commerce; in June, the act to suspend all commercial intercourse with France; all of which must have been well known to the Directory; and the act to augment the army is a link in the same chain. Not, sir, I presume, as gentlemen would say for us, that these measures have terrified France into a disposition to accommodate controversies; not that twelve regiments are a match for her armies, or are to be transported to her coasts, but that all the acts, taken in connexion, are an evidence of our spirit rather than of our strength; that they are a pledge of our union and further exertions, and a proof that political divisions of sentiment will vanish before a common sense of insulted dignity and national honor. Under these advantages your last Envoys have embarked; and shall their ears be wounded on their arrival by intelligence that you have begun to undo your late work, to destroy piecemeal your defensive establishments? Will it not damp their zeal, and humble their spirits? Yes, sir, disguise this measure as you please, it will prove a stumbling block to the negotiation; the Directory, with a prompt sagacity, will discern through it a weak and wavering policy, from which they will not fail to attempt to draw an advantage.

When, sir, gentlemen who are opposed to the resolution, express a readiness to modify the present Military Establishment, so as to diminish the expense, they are told that any modification whatever will produce the same effect upon the negotiation as the proposed resolution in its full extent. I beg leave to express a very different conception upon this point: in one instance we hold the purse and preserve the establishment; in the other we shall lose, first the establishment and then the purse. The one is a total departure from system, the other mere suspension of means. Mr. Chairman, in the beginning of this debate I was greatly embarrassed to solve one problem. I believed and still believe the gentleman who offered the resolution to be desirous of a successful issue to the negotiation with France, but I could not reconcile this disposition with a measure calculated in my

opinion to defeat it. From this however I am relieved by the gentlemen from Pennsylvania and Virginia who avowed their belief that the negotiation will not succeed.

[Mr. GALLATIN and Mr. NICHOLAS disclaimed this opinion.]

Mr. ORIS insisted, and appealed to the Committee, that they had declared that if they thought the negotiation would succeed they should be indifferent to the success of the resolution, and he did not believe it possible to assign any other rational motive for their conduct. Thus, sir, said he, gentlemen wish to anticipate our decision under a state of things very different from the present. They think that the discretion of this House cannot be trusted in such an event; that we shall be too much heated to act wisely. Really, sir, I may venture to assure those cool and dispassionate gentlemen, that this House may be safely trusted with the exercise of their Constitutional power, at any time and under any circumstances. Sir, with my friend from Delaware, I confess I have indulged mournful presentiments of the effects to be expected from a new treaty. I foresee that, like other nations, we may be compelled to realize that the dangers of peace and amity are the most serious dangers. I know that attempts will be made to demolish the whole defensive fabric which we have erected, and to replunge us into that abyss of debility and inaction from which we shall never escape a second time. With these difficulties I have always thought our Government would be doomed to struggle whenever a treaty should be concluded with France, but I did not expect to see at this time the axe laid to the root of our whole system. I flatter myself, that, like other nations who capitulate, we should at least be permitted to march out of the garrison with the honors of war, and not be called upon to surrender at discretion before we know our terms. To this measure I will never consent.

Mr. O. concluded by disapproving the intimation suggested by the gentleman from Pennsylvania, (Mr. GALLATIN,) that the effect of a treaty with France might probably involve the country in hostilities with another nation. He considered an allusion to such a state of things as highly premature and injudicious, and what ought not to be mentioned on that floor. He did not believe in any such consequence. Should it indeed happen, deplorable as it must be, he doubted not that every gentleman in the House would meet it with firmness; he thought nothing so likely to hasten it, as to express opinions of any such connexion between the state of peace with one country and hostility with another, and to familiarize ourselves to a belief that we cannot preserve peace with all nations. For these reasons he was ready to give the resolution a decided negative.

Mr. JONES said, he would not have risen to trouble the Committee, after such a length of debate, had he not conceived it necessary to give his reasons for the vote he should give on the present question. He had made the motion for the reference of this resolution to a Committee of the whole House, in order that it might undergo a

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full, free, and fair discussion; he felt himself highly gratified in obtaining the indulgence, and he would now account to the Committee how he had improved it.

Sir, said he, I should feel myself unworthy of the blessings of a free citizen, if I had not taken the subject of a standing army into my mature reflection, before I had the honor of taking a seat in this House. Upon this subject I have long ago made up my mind. But the question of the propriety of a standing army is not now to be discussed. With respect to the resolution now under consideration, I am free to confess that I think it introduced at an improper time, and that, from the present situation of our affairs abroad, it would have been more properly delayed longer. At a late stage of the session, the influence this measure might have on the negotiation, which is a specious rather than a solid objection, would not apply. I did not therefore expect to be called upon to give my vote at the present period.

This subject presented itself to my reflection at the time when this law passed, although not then a member, being a citizen, it did not escape my attention. I did not think at the time, from the information I was possessed of, that there existed any circumstance which could give ground to a probability of invasion from France or any other Power. However, it was thought otherwise by the Legislature, and preparation was made for defence. Those measures being in existence, and our Ambassadors having gone to France on an accommodating mission, I would have been satisfied to have awaited information from them without wishing any change in our posture; but as several other gentlemen, over whose conduct I have no control, have thought otherwise, I must meet the vote, and shall not shrink from it on that account. The subject having been brought up, I have given it all the direction I was capable of in the short time I had to determine. I have looked over and examined the several measures of defence which have been established against France. The result is, that in my judgment this is among the least operative, if it ought at all to be classed with those measures of defence which were established by Congress on that occasion. For it seems in some sort to attach itself to the permanent military force.

The first measure I find adopted to repel invasion was the organization of 80,000 militia. That was thought an efficient means of protection at the time, but that law has since been suffered to expire. The next step taken was to pass a law authorizing the President to raise a provisional army of 10,000 men, in case of war or invasion, or imminent danger of invasion, and to empower the President to accept the services of as many volunteer corps as he should think proper. In consequence, a number of independent corps had been formed in different parts of the continent, armed, uniformed, and equipped, at their own expense; they had offered their services, and had actually been accepted by the President, and still held themselves ready to be called out on the first emergency. It cannot be forgotten what a splendid appearance

the numerous volunteer corps of this city made on a late melancholy occasion; amongst these was a considerable band of McPherson's legion of blues, composed of cavalry, infantry, and grenadiers, which he understood had associated for the purpose of being enrolled and ready for service, on the call of the President. He did not doubt that similar traits of a patriotic spirit had appeared in other large cities, and that similar corps had been formed in most of them for the same purpose. Another step taken for our defence was an act to authorize the raising of 24 regiments of infantry, a regiment and battalion of riflemen, one battalion of artillery, and three regiments of cavalry. This was called the eventual army, being authorized in case war should break out, or danger of invasion.

We come now to the naval armaments; these were 34 ships of war of different sizes, commissioned, armed, manned, and sent out to cruise against, and these as well as private armed ships were authorized to make reprisals and captures upon, the vessels of France. This was the most operative and the most consistent mode of defence entered into, or that could be, because it was by sea only that we were attacked. This he thought the only active and useful means of defence that was attached to the whole system.

But some gentlemen had supposed (he could not tell upon what grounds) that this was the commencement of a regular debilitating system, in order to prostrate the whole of our defensive arrangements. Mr. J. said he trusted it was not so; on the contrary, he hoped every part of the plan of defence now in existence would remain, except the alteration now proposed. Viewing it as he did, that the establishment of an army of 9,000 men was extremely immaterial to the support of the dignity of the nation in the view of France; viewing it as not in the least useful at the present, and perceiving not the least probability of invasion, and viewing this not as a necessary part of the defensive system, he could see no impropriety in disbanding them, and saving the expense.

Mr. J. said he would now call the attention of the Committee to the conduct of a nation from which it was become a favorite practice to draw precedents for the United States—I mean England. The last resort of that Government in all times of danger of invasion is always to the mass of the people. It will be recollected that in the war with France, in 1778, danger of invasion was apprehended; the militia were immediately imbodyed, and formed encampments in the most exposed parts of the country, to wait the event. During the present contest in Europe, when an invasion was again threatened, the same measure was adopted, the militia corps were considerably enlarged, new corps formed, volunteers accepted, and the whole people, in a manner, imbodyed to resist the invaders. The King, in his Speech to Parliament, subsequent to these events, felicitating the nation on this great display of zeal and firmness, declared that his chief reliance, in great difficulties and dangers, was on the support of his people; and, in a late review of the militia of London and

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Westminister, he told the Prince of Orange it was the proudest day that he had ever known, to see the whole mass of the people was prepared and ready to protect their Government. The 2,500 men already raised, or the whole 9,000, if it should be thought proper to raise them, would make but a very small force towards repelling a powerful enemy.

Mr. J. said he was really astonished at the reference made by some gentlemen to the resolution, from which it was inferred that the militia were not to be depended upon in the hour of danger. If this reference were fully proved, to be sure, it would be the most powerful objection that could be made to the resolution. But he believed it would appear otherwise on the examination. Shortly after the commencement of the Revolution the whole of our force were militia, and they continued so till they were actually injured to battle, and had gained many important conquests. They went forward and eminently distinguished themselves, long before regular discipline was established among them. The battle of Bunker Hill, eminent in our early history, was achieved by men taken from their civil occupations. The brave man who led them to action had been recently called from his civil employment as a physician, but, warmed with enthusiasm in the cause he had undertaken, he fought bravely and closed his short career by a glorious death. Although this noble effort was not crowned with success, so far as to gain the victory, yet our raw troops so much weakened the enemy, and left such impressions of their own courage, that they were able to keep possession of the country around Boston and deprive the enemy of supplies until the arrival of General Washington, who had been appointed Commander-in-chief, and who finally compelled them to evacuate the place. Another instance of the enterprise and valor of militia, is the bold expedition against Canada, by a parcel of New York militia under Generals Montgomery and Schuyler; they encountered every hardship of a long and difficult march, in a most inclement season, through a wilderness, took fort St. John's and Montreal, and finally attempted Quebec itself, where, though they did not succeed, it was not for want of courage or conduct, but of the necessary means for an assault. A still more striking instance of the valor and activity of these kind of troops is the battle of King's Mountain, already mentioned. In this brilliant affair, the men engaged were not even an imbodyed militia, they were the farmers and their sons, who, fired with a just indignation at the sight of a hostile army marching through their country, spread the alarm, appointed the place of meeting, unharnessed their horses from the plough, and went to seek the enemy. They attacked a force of 1,400 men, two thirds of whom were regular British troops, under Colonel Ferguson, as gallant and noble an officer as any in the British army; they not only defeated him but actually killed or took every man. I do contend that the militia are the principal dependence for the defence of our country against invasion; to be sure, in case of actual war, it would be necessary to organize them in-

to a regular force; but, however organized, they would still come from the mass of the people. Such men as can be enlisted into the army in time of peace, in this extensive and happy country, where labor is so well rewarded in all the various employments, would be a forlorn hope to defend the rights and liberties of a free people. It is only the people themselves, who feel interested in the happiness of their country and the safety of their property, that are the defence of this country.

A gentleman had informed the Committee that if the enlistments were now stopped it would save \$1,500,000, although the resolution was rejected. However, he believed all the officers were appointed; these are the most expensive part of the establishment, and they must remain on pay. From the report of the Secretary of the Treasury it appeared that the Military Establishment cost \$4,067,000, and that the revenue to meet the expenditures will be deficient by five millions. This money must be borrowed. By the proposition which was now made to the House, of disbanding the army, there would be a saving of \$5,000,000, so that the deficiency would be reduced to 2,000,000. Mr. J. said, for his part, he would rather raise the money by a direct tax than to borrow, such was his aversion to a new loan. He would do anything rather than to involve posterity, by leaving a future generation to pay the debts now contracted. But the suspension of enlistments would not prevent the loaning of the money, because the House would proceed to appropriate sums upon the report of the Secretary of the Treasury, which recommended the borrowing of five millions. When the proposition for the loan came before the House, it would be thought inconsistent for those who should vote to keep up the troops to vote against the loan proposed, and therefore he hoped gentlemen who were against the loan would not give their vote in favor of the resolution.

Mr. J. said he was much obliged to the gentleman last up (Mr. Oris) for furnishing proof of the improbability of invasion from France. Indeed, he had himself said, that he was not under very lively apprehensions of it from the present state of Europe. But some other gentleman had asked what change there was to induce the gentleman to bring forward this resolution. Sir, there is such a change as to make the army an useless expense. When our Ministers were insulted, I felt as great indignation at their treatment as any gentleman on the floor of this House. I acknowledge some propriety in the argument that at any time they could take troops to Europe or where they pleased, because they were in the most flourishing situation. But the change in their affairs is great; at present we find them but just surmounting the difficulties of a most unsuccessful campaign, threatened by a combination the most powerful that ever united their efforts against any nation. This powerful phalanx is not dissolved. Is it to be supposed that at this time of all others they are to send their 30 or 40,000 men across the ocean, when opposed by the more powerful naval force of Great Britain?

The gentleman from Massachusetts, said Mr. J., thought there was no probable danger of immediate

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invasion. Yet it might be next year attempted. I confess I do not perceive the consistency of this argument with another he used—that 3,500 men were sufficient to meet the present danger. If there is no danger to be apprehended for a year to come, why should we provide for it, and not leave it to the next Congress, who would be better able to judge of the danger, and might provide an adequate defence to meet it?

Before he concluded, Mr. J. said, he would say a few words as to the system of borrowing money for national support. It was a fact, with which most gentlemen must be acquainted who had read British history, that if the Parliament in the reign of Queen Anne had opposed this system of borrowing, and had levied taxes and contributions on subjects equal to those imposed on them in the reign of George the Third, they would then have had a revenue equal to their expenditure, which was immense, to support the continual wars carried on in her reign, and all their burdens of national debt would have been avoided. But the contrary was their conduct, and an enormous national debt was transmitted down to posterity, which grew as it existed. They were unwilling to bear the expense incurred by themselves, but forced them upon their children. Are we willing to do this, sir? No, I trust there is too much patriotism, and too much justice in the people of the United States, and that they will rather support any expense, if necessary at this time, than encumber their successors with a growing debt.

Mr. J. concluded by saying, he believed there was not the least danger of invasion, even should the negotiation fail. But, in case so remote and unlikely an event should happen, he thought the militia or the people a much better reliance for defence, than the few regular troops contemplated by the law. He was opposed to a new loan, except in case of the greatest necessity, and knowing that these troops could not be kept up without the loans, he should vote for the resolution, and did not apprehend it could have any influence on the disposition of France towards an accommodation.

Mr. CLAIBORNE said, the resolution upon the table certainly presented to his mind an aspect favorable to the interest of our common country; instead of drawing upon the Government "debility and degradation," in his opinion, it would strengthen her resources, and increase the respect of her citizens for the Administration. Instead of endangering the security of the nation it would add to its safety, and promote the happiness of the people. Under these impressions, he should do violence to his own feelings, and be unworthy of representing a free people, did he not give the proposition under discussion his most cordial support. He had frequently heard the fate of those nations who had lately lost their Governments, and in some cases the little remnant of liberty they possessed, repeated over within the walls of this House; the subject was never introduced but his sensibility was greatly excited, and the feelings of his heart much wounded, at the recital of such calamities. But when he heard gentlemen assimilate the situation of Italy, Holland, and Switzerland, to the

present state of American affairs, he felt indignant at the reflection upon the American character. In those countries, the Governments were corrupt, human rights were not respected, and the tyranny of the rulers alienated the affections of the people; the intestine divisions which consequently ensued invited attack, and they fell an easy prey to French ambition. But view America, and the prospect brightens: we have a Government of our choice; and every man knows that while the Constitution is preserved his rights are secure; from revolution, therefore, we have naught to gain, but much to lose.

The wrongs France had done us, upon the ocean and elsewhere, were known to all America; everywhere the public sentiment had been expressed; and, so far as relates to resistance to foreign domination, and a determination to support our Government and independence from foreign attacks, but one opinion seemed to prevail from the Lakes in the North to the forests in the West, from St. Croix to St. Mary's. On these subjects the people think alike, and there can be no doubt of their rallying around the standard of their country when real danger threatens. It was from the prevalence of this national sentiment that he felt secure from invasion, and not from the "gauntlet" an invading foe would have to run, or from a hope that the troubled "ocean would swallow them up."

Besides the assurances of safety from foreign attack, which the bravery of his countrymen gave him, Mr. C. felt additional security from the debility of our enemy, at least so far as relates to the means of conveying war to our shores, which means unquestionably were money and ships. But from this weakness the gentleman from Delaware (Mr. BAYARD) seems to draw no security, and asks, "What may we not apprehend from a nation who had the boldness to attempt, and the power to effect, the invasion of Egypt?" Mr. C. said, his country was degraded by the question! Are the Mamelukes of Egypt to be compared to the citizens of the United States? [Here Mr. BAYARD explained, and declared he had made no such comparison.] Mr. C. said, he believed he had quoted the expressions of the gentlemen from Delaware accurately, and he had a right to draw therefrom his own conclusions. He would repeat, that great was the difference between the Egyptians and the citizens of America. In Egypt, the people, in want of the means of defence, involved in political slavery, and savage ignorance and poverty, became an easy conquest to an invading foe. But America was powerful in the means of self defence, and presented innumerable and insurmountable barriers to a successful attack. The expedition to Egypt had proved highly injurious to France, it pressed hard upon her fiscal resources, and so palsied her warlike arm as to render it doubtful at one time whether she would be enabled to resist with success the coalesced Powers who threatened her political existence. Mr. C. thought a remembrance of this, if other instructive lessons were wanting, would at least teach France the folly and the danger of carrying war into remote countries. Believing thus, as he did, that there was no

danger of invasion, he could not see to what useful purpose this army could be applied—but, on the contrary, he saw much evil which its existence would create; among the greatest, was the increase of the national expenditure, and with it the increase of the national burdens.

Let not gentlemen flatter themselves that the present weight of Government was not felt by the people. In those parts of the Union where commerce floats by the doors of our citizens, the taxes are paid with ease, but in the interior of the States they were met with difficulty. But if this army system was persisted in, taxation must everywhere become great and burdensome. His desire was, to exact no more money from the people than was absolutely necessary. Nothing had a greater tendency to tame the spirits of a free people, and sooner to prepare their minds for political servitude, than an immense national debt and heavy taxation.

The feelings of a nation may well be assimilated to those of an individual. A man loaded with debt, and guarded by his creditors, too often loses his firmness of character, and sinks into inactivity and despair. A nation groaning under a national debt and the weight of taxes was too apt to fall into a political lethargy, and tamely to wear any yoke their rulers may prepare for them. What but this, has induced the people of England, without a murmur, to carry a corrupt Government through so many wars of ambition? What else has induced the people of England to suffer their treasure to be squandered away in the paying of foreign hirelings, to impose upon distant countries Governments not wished for by the inhabitants? And what besides has occasioned the people of England to see without complaining a war of plunder and desolation carried to the once peaceful and happy plains of India? But, to avoid immediate recourse to further taxes, gentlemen proposed the expedient of loans. This, however, was only delaying the evil; this policy is bad, as was clearly shown by his friend from North Carolina (Mr. MACON) at a late period last evening.

Mr. C. said, he had given an opinion, that the disbanding of an additional army would strengthen the resources of our country, and increase the love of the people for the Government. To his mind, nothing could be more clear. Next to freemen, money was the most powerful engine in the defence of a nation, a saving of which would insure the adoption of the resolution. Next to dispensing protection and equal justice to the people, economy tends to render an administration pleasing. But the gentleman from Delaware (Mr. BAYARD) was fearful, if this army was reduced, another could not easily be raised, when the occasion required it. Mr. C. could not think so; he placed great reliance upon the patriotism of his fellow-citizens, and when the country was in danger, many brave defenders would range themselves under her standard.

We have been told, said Mr. C., that of the twelve regiments, not more than 3,500 men have been raised; this convinced him that the American people did not view this army as necessary

for their defence; were it otherwise, the ranks would not be so thin.

Some gentlemen were apprehensive that the adoption of the resolution would injure the pending negotiation with France. Mr. C. said, if he thought so, it would not receive his support. No man desired more heartily the success of the mission than he did. Peace was essential to the welfare of his country, and he wanted much to see it restored. But the disbanding of this little army could have no influence on the councils of France. No other inference could be drawn than this: that the American Congress, assured of their immense resources for defence, and relying on the bravery and attachment of the American people to their country, had thought proper to lessen the expenses of Government, by reducing a useless part of their military forces.

Mr. HARRISON said, the resolution had been so ably spoken to, that it could not be expected to receive any new light from what he should add. But when it was recollected that he had no other way of expressing his opinion on any subject that came before the House, than by taking part in the debate, not having a vote in the House, he trusted he need make no apology for rising on the present subject, which to him appeared an important one. He was fully of opinion that disbanding so large a proportion of the military force would be attended with disastrous consequences. In giving this opinion, he was sure he spoke that of nine-tenths of his constituents, and that they would with much more readiness bear their proportion of the expense which would be necessary to maintain these forces, than that they should be disbanded.

The employment of his past life, Mr. H. said, had led him to believe that too much reliance was placed on the militia. Were valor or alertness the only requisite in the formation of a good soldier, he should willingly give the militia that character. But these are only partial qualities compared with those which they may be called to meet. What would their valor do, attacked by the military tactics of a Bonaparte or a Massena? Nothing short of discipline will do for our forces. And are our militia well disciplined? No, sir, they are not.

Mr. H. said he had experienced the inconveniences of a militia army. In 1794, he went out with a number of the militia of his part of the country against the Indians. When brought into action they behaved very well; they did not want courage, but after a very short service they wanted to go home, they were anxious to see their families, and therefore numbers deserted, and left the army in a state which was almost the cause of its destruction. He had experienced seven years service with the militia, but he was sorry to say, such was their conduct, that he never could think of trusting the country entirely to their protection. They might do well with regular troops, and no doubt would. Under these impressions, and from this experience, he knew he spoke the will of a proportion of his constituents in sincerely hoping the resolution would not pass.

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Mr. HILL.—Notwithstanding the invincible embarrassment which always oppresses me when I rise to address this House, notwithstanding my reluctance to protract the debate on this question, which I have all along considered ought to be promptly and immediately decided, I find myself impelled to offer a few observations on the subject, to make evident that my desire to press a speedy decision does not arise from the unworthy motive of forcing the minority into a measure without a full discussion of its merits; and that the sentiments which have actuated me, and will determine my vote on the present occasion, are such as forcibly impress me with the propriety and necessity of such disposition of the resolution.

I consider this question of vast importance in various points of view, whether it regards our respectability abroad or our interests and safety at home. The proposition appears to me to be fraught with mischief, calculated to involve the councils of our country in the contempt of other nations—to make them disreputable in the consideration of our citizens. While, sir, I thus freely declare my sentiments of the measure, I would not be understood to intend that an improper motive is ascribed to the gentleman who moved or the gentlemen who advocate the resolution. The human mind is so constructed that the same object of contemplation will appear differently to different persons, and even, under various views, will assume various appearances to the same mind; to this I am disposed to ascribe the want of unanimity now experienced.

To me, sir, after bestowing the most unremitting, steady attention to the arguments of gentlemen on both sides, it appears unequivocally, that the measure if adopted would produce the most fatal effects; that the proposition can but create the most pernicious influence on the pending negotiation with France. Hence, sir, it is my wish to have the resolution speedily disposed of. I believe a majority of this House unquestionably disapprove it; and the only way to prevent the pernicious influence dreaded is to let the disapprobation of the House accompany the account of the proposition. I would have the same breeze which wafts across the ocean the paralyzing intelligence of the proposition, convey to our Commissioners the restorative information of its decisive rejection. But, sir, it is said that this ill effect cannot be produced, because this army forms no part of that system of defence occasioned by French aggressions. The contrary of this is so evident, that it would be an insult on the understanding of this House to attempt to prove it. If, however, a doubt exists, a reference to the law authorizing the enlistments—to the terms of enlistment which form the contract between the Government and the soldier, will effectually conclude it. If, then, this army is part of a system of defence adopted in consequence of French aggressions, before we agree to disband it, it becomes necessary to know whether those aggressions have ceased; whether the injuries suffered have been repaired; and to examine the present state of affairs between the two countries. Will it be alleged that this is ma-

terially different from that existing when this army was organized? Will it be concluded that we are not in a state of actual war? Sir, it will not, because neither position is tenable—the facts are otherwise. Why, then, sir I ask, are we to abandon this system? It is said, because it has not, it cannot have, any useful operation—because it has not had, it cannot have, any possible effect on the French councils, while it induces a heavy expense on the American people. Sir, it has been clearly and conclusively proved, that the system adopted has had a powerful influence on the French measures. The belligerent attitude assumed by this Government, was a strong and indubitable evidence to the Government of France, that we should prefer war, with all its calamities, to submission, and loss of our independence; that we would expend our last dollar in defence of our rights, but not bestow a single cent for tribute. The change of measures evidences the change of sentiment in the French councils, and this was consequent to the adoption of this system—a negotiation is invited by those who, but a little while before, rejected with scorn and contempt a like overture. If now, in the very commencement of that negotiation, the first act of the Legislature is an abandonment, is the destruction of that system, what must be the fatal consequence? Sir, it cannot be anything less than a prostration of our national honor, dignity, and interests, at the feet of French justice, of French mercy; and all that we could have to expect would be, what the magnanimity of the Great Nation might, in its tender commiseration for us, think proper to bestow on a people whose councils are too fluctuating and too weak to assert their rights, and whose resources are unequal to their protection.

But, sir, it is said that the negotiation may fail; nay, it would seem that gentlemen calculate it will fail; and therefore it is, say they, we bring the proposition forward now, aware that we have to encounter less difficulties than if we wait the issue of the negotiation. Surely, sir, nothing can operate with more force on the mind of every member of this House favorable to the measures of Government, resisting such encroachments, than this declaration; it must decide every mind on the propriety of making a firm stand against this present attempt. It is further stated that the army cannot be useful because invasion is impracticable, or if practicable, still it cannot be useful, on account of the paucity of its numbers, and for other reasons. Both these positions have been so ably assailed, and the assertions so conclusively refuted, by two gentlemen from Virginia, that it would be but waste of time to enlarge on the subject. I will only observe, that possibilities more remote have been sustained in the French councils, and have proved practicable in their execution. Calculations founded on the events of former wars, are not admissible as correct indications of what may occur in the present war. Never in modern times has a war sustained as this has been existed. Perhaps the present are the only times which ever witnessed a single nation, unaided by allies, carrying war and havoc in every direction, through various nations

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at the same time, with such a combination of Powers to resist, and sustain itself, victoriously, as the French nation has done.

Are we to satisfy ourselves with the belief that the French will not invade us, and become unprepared to defend ourselves, while in actual war with that Power? Sir, is not this inviting invasion? But, admit that invasion is not to be dreaded—is that the only means the French have of annoying us of disturbing the peace, and introducing war into our country?

While we are considering whether our Constitutional power to adopt measures to repel invasion is or is not expedient to be exerted, let it not be forgotten, our country has a vulnerable side, other than that exposed to invasion; a point, sir, that will not escape hostile notice; a point, sir, which the Southern States have most to dread, and where, if war in our country is to happen, it will probably commence.

As to the expense to be incurred by maintaining the army proposed to be discharged, it is admitted it cannot be much; too trifling, it is acknowledged, to be an object, if the mission to France succeeds. In that event it is merely questionable whether there would be any saving at all by disbanding the army now, as most probably the pay which may be considered as proper to bestow on its discharge, would be fully equal to its support during the whole period of its enlistment.

Much has been said on the subject of economy. Truly, sir, it is an important consideration, and ought always to be present in our councils. But, sir, economy consists in a due application of the wealth and resources of the country; to promote measures calculated to produce the peace, safety, and happiness of the citizens; to insure the prosperity and welfare of the Republic. This kind of economy is as distant from the paltry considerations of an impolitic parsimony as it is removed from the waste of an inconsiderate prodigality. I therefore consider what has been urged on that subject as of no moment in the present question; and much better calculated to tickle the ears of an unreflecting populace, than convince the minds of a deliberative assembly. It has been alleged that the existence of this army occasions unpleasant sensations in the minds of the citizens at large; that the sound of the drum and the glitter of arms among their peaceful habitations distresses them. Sir, doubtless it excites their attention, and produces from them inquiries on the subject, but when told that this army is raised to be ready to protect the rights and support the honor of their country, which has been and still is injured and insulted by a foreign Power, they are satisfied. But what would be the operation of the measure proposed on the minds of these very citizens? They find the army disbanded, they inquire what reparation has our Government received for the injuries, what satisfaction for the insults, heaped on our country? None. Why is the army then disbanded, and, after the expense of organization for the defence of our country, why are we now left without the proposed means of defence? Sir, can these questions be answered without involving our Government

in the disrepute of its citizens? No, sir, it must forcibly attach to it in every mind.

It has been urged that the wisdom and prudence of this House are involved in the present question. I sincerely coincide in this sentiment. I will go further: the dignity, sir, of this House is involved in entertaining this question. I call loudly to be extricated as speedily as possible. Scarcely, sir, has a month elapsed since this House, without a division, announced to the American people, to the world at large, that it is the dictate of wisdom, of duty, to persevere in the system of defence adopted by the councils of our country. This sentiment is emphatically expressed in the Address of this House to the President. And we are now, without even the suggestion of a change of situation, called on to make an inroad on that system, to commence its destruction.

I hope, sir, the question will be taken this day. I feel every disposition to accommodate gentlemen in their feelings and wishes, but I hold the interests of the country, which I sincerely believe to be involved in the length of this debate, as too expensive a sacrifice. I apprehend every gentleman has made up his mind, without the probability of relinquishing the point on which it rests; if so, a further postponement can only be to afford an opportunity for a display of oratory. If gentlemen have made up their minds, and if it is important that a prompt decision should be had, it will be better to take the vote now and have the speeches afterwards—they doubtless will prove entertaining and instructive essays; and this course will be considered less exceptionable, as it has been exemplified with no small success by an ancient orator of celebrity. I allude to Cicero, and his oration in defence, but not heard until after the trial, of his friend Milo. It is true it was of no manner of service to his friend—but it was nevertheless a very fine speech, and contributed not a little to increase the fame of his eloquence. I hope, therefore, sir, that this course may be taken, rather than the decision should be any longer delayed.

At this point the Committee rose, and had leave to sit again.

FRIDAY, January 10.

REDUCTION OF THE ARMY.

The House, in Committee of the Whole, Mr. MORRIS in the Chair, resumed the consideration of Mr. NICHOLAS's resolution for reducing the Army Establishment.

Mr. KITCHELL thought that the question before the Committee had been treated by the gentlemen on both sides upon much too extensive grounds, many of which had nothing at all to do with it. It appeared to him that the real merits of it would be better ascertained, and a vote taken with much more propriety, if it only rested on these two points, to which he wished to call attention:

First. What would its influence be with the French Directory in the present state of the negotiation?

Secondly. What would be its influence or use in case of invasion?

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These were the principal grounds on which it was opposed, but, he conceived, without much foundation. As to its influence on our negotiation with France, he thought the arguments very weak. Could it be supposed that an army of three or four thousand men, at a distance of at least three thousand miles, could bid defiance to a Power that the combination of all Europe would not appeal? That must be an absurd conclusion. This small army could not possibly affect a negotiation when the Atlantic separated the Powers. In what form could they be used to attack the French? Could they be transported across the ocean to compel the Directory to attend to the terms we should dictate? If the attempt was made, our great and good allies would meet, and very probably impress them into their service. Or was a bridge to be laid across for their transportation to Europe? But, if they could get there, what would they do? These notions, he believed, would be acknowledged absurd; but in what other way could the preservation of this army influence the Directory? Yet gentlemen had ascribed to it that wonderful power. He concluded it could have no such effect.

But the gentleman from Delaware said, if the French could have emissaries here to direct our councils, they would recommend such a motion as this. No, said Mr. K., they would rather advise or influence us to augment the forces, in order to drain our resources, so that we should be unable to meet them, if they had any design upon us. They would wish rather to disable us from making any opposition, which could be more effectually done by leaving us without money than without troops. Not that he conceived our financial state to be at so low an ebb as to disable us in any event from keeping up the army, but while our expenditure was already more than our revenue, it would certainly be imprudent not to attend to every opportunity of decreasing it, so as to bring it as nearly level as possible.

Farther. What effect could this army have in case of invasion? What would our whole army, of fifteen or sixteen thousand men, do against the great number any European Power, who was so inclined, could throw into our country? If such madness should seize them as to send an army here for the invasion of our country, could it be supposed that they would immediately send a flag of truce to inform us of the manner of its execution? Certainly not. Would they not be so well acquainted with our country and situation as to land where these troops could not be brought to operate against them? Then can we suppose that the keeping up of these men, at the rate of four millions of dollars a year, will compel France to do what we please? No, sir, this army would not be found, were a disembarkation to take place; and our militia would have to stand the whole attack.

Mr. K. believed that at any time a well armed, and well disciplined militia would be competent to all the purposes required to make head against an invasion from any nation. He therefore thought that while a standing army of this force would be useless to make any impression on the French mind, so it would on their armies, if they actually

invaded the country. He did not believe that the people could not support this army; they could, or one ten times larger, if necessary, and they would do it in that event. But he was confident that a cheaper and more efficient protection was to be found in the people of the United States. Suppose this army were to be divided to guard different parts of the coast. Our coasts are so extensive that there could not be a sufficient quantity at any one point to do any good against an army that should invade, and therefore what use could they be in that service?

Mr. K. said he merely threw out these ideas to show his reasons for voting in favor of the resolution, which he must do unless his objections, and some others which had been mentioned by gentlemen who spoke before him, were satisfactorily removed. He thought the money could be better applied to arming and disciplining the militia, and he never could give a vote to impair that great foundation of our strength, which ought to be cultivated with assiduity. Nor was he anywise apprehensive of invasion if the war in Europe should cease, because of the affinity of France and Great Britain to each other, which would operate as a sufficient check. Besides, it could not be supposed that after a war of this great length, and unprecedented for fatigue and sanguinity, either of those Powers would enter on new adventures, when a few years rest and peace would be so requisite to recruit their men as well as their finances. It was said that in another year they may invade us, and therefore we ought to preserve the army. To be sure it was possible, but the argument would lead to making provisions for another century. If there is any way, said Mr. K., in which we can attack the French Republic, it must be by sea; we have no fear of them by land, because they will not attack us, and it is not probable we shall attack them. If, indeed, that is our wish, we must increase our force, instead of diminishing it. They do distress our commerce, we ought not therefore to be negligent of our navy, but to protect it; but as for an army, we can have no use for it.

Mr. S. SMITH believed, with two gentlemen who had lately spoken, that if a bill was now brought in to create the army in question, it would have very few advocates. The gentleman from North Carolina (Mr. WILLIAMS) had said, that if he had voted for raising this army, he certainly should now vote for its continuance, because he saw no change in circumstances sufficient to warrant any change in measures. Mr. S. said, he disagreed with that gentleman: he did not think the same occasion now existed.

Mr. S. said, he came to Congress this year with a strong impression upon his mind that the expense of this army was an unnecessary one; but he did not expect such a resolution to be brought forward at so early a period of the session. He had hoped that the gentleman would have delayed his motion until every document relating to the army was laid before the House by the Secretary of War, and every document of finance from the Treasury Department. Unprepared as he was, and unwilling as he was to vote, he was

called on now so to do, and therefore must vote upon such documents as were in possession of the House.

He conceived it necessary to call the recollection of gentlemen to the state of affairs when the law in question had passed. It had been thought proper, by the Senate of the United States, to publish the despatches of our envoys to France, which by him, and many others, was considered in no other light than as a manifesto to prepare the minds of the people for war; for all had declared that France could not do otherwise, after their publication, than declare war. The House thought so, and declined the publication on their part. However, having been made public, it became a duty to assume a posture of defence; the necessity of which so strongly impressed him, that he could not have returned to his constituents without seeing the proper measures taken.

It had been said, that this part of the army was not a part of the system of defence. What else could it be? To be sure it was not the only means of defence adopted, but it was considered that this army would operate valuably as a rallying point round which the militia would assemble. It was thought that wherever the United States should be invaded, the enemy would first be met by the militia, and that these troops, being prepared, would rapidly come to their aid.

Under these impressions, Mr. S. said, he had thought it his duty to bring forward a resolution for raising eight regiments, and six troops of dragoons; the House carried it further, and voted twelve regiments and the dragoons. The measure was then thought to be so essential a feature of our defence, that there were but eleven members who voted against it. It will be recollected that a gentleman expressed an opinion that the right wing of the Army of England (as it was then called) would probably come to this country; although he had no such idea, he had thought that the Southern States might be in danger of a descent from Hispaniola, and therefore thought that a small army might be necessary.

It would not be considered improper for gentlemen to vote for continuing the men who had been recruited into the twelve regiments a few months longer; for although they could not be draughted into the old regiments, yet many of them might and probably would be recruited for those regiments, and a saving of clothing, &c., would thereby be effected. He presumed something like this was the middle ground contemplated by the gentleman from Virginia. At present no regiment appeared to have more men than would make a battalion. The supernumerary officers might therefore retire home till called for, and thus make a considerable saving.

From the reports of the War Department, Mr. S. said there were no more than 3,399 men recruited for that service; many of these would be objected to when they came to the muster, so that they would probably be reduced to 3,000; 8,520 was the total number of men wanted for the twelve regiments. By stopping the enlistments, there would be a saving of bounty and clothing

for 5,520. The raising of the six troops of dragoons (no men being yet engaged) might also be stopped, and the whole expense of their bounty and clothing, besides the purchase of horses, would be saved. Under this statement of facts, would gentlemen think of destroying this army at once? Would it not be more prudent to wait two or three months for advices from our Envoys? He felt well assured in his own mind that a peace would be the result of our negotiation. If gentlemen thought with him, they would wait the event. If successful, the army would of course be discharged under the law.

The resolution, Mr. S. said, was calculated to discharge all these men without a single shilling to carry them home. He trusted they would not be sent home without such provision as had been usual to make.

This army had been called a standing army, and it was said that excuses would be found to keep it up, even after a peace. But this cannot happen, for the law expires, "whenever the differences between France and America are made up."

Sir, said Mr. S., there is no man that places more reliance on the militia than I do, but before I place all my reliance on that truly essential part of our defence, much as I admire it, I must see a better militia law framed than exists at present. Until that time, I must say that a regular army in case of war will be always deemed necessary. I was pleased to hear the gentleman from Virginia (Mr. RANDOLPH) say that something like a requisition was necessary, and that the money appropriated to this army ought to be applied towards disciplining our citizens, that they may be ready on an emergency. But how can that gentleman make these men serviceable under the present militia law, when their time of service is so short, that in many instances it will be nearly expired before they can arrive at the scene of action? Sir, a requisition might be useful in this country. It is the youth of a nation that can most easily be made its effectual defence; France has proved it—oppressed by the great Powers of Europe, in a manner deprived of her soldiery, she called out by requisition the young men from eighteen to twenty-three. What was the consequence? The veterans of Europe were not able to withstand this shock, and France was everywhere victorious. Again oppressed by numbers, the armies of France, pressed by the troops of Russia and Austria, were defeated at all points, and again she had recourse to the young men. The conscripts (being those who had passed the age of eighteen since the first requisition) were called on; they joined the armies of their country, and the proud armies of the allies fled before them, from the morasses of Holland and from the mountains of the Alps, and victory again decided for the armies of France.

Mr. Chairman, grant a militia law such as has twice been reported to this House, where the youth from eighteen to twenty-five are selected, in which a plan is digested for arming, disciplining, and holding them in a constant state of preparation, and with power of keeping them in the

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field a sufficient length of time, and I do not hesitate to say that an army on a regular establishment will be rendered wholly unnecessary. America would then feel herself perfectly secure; an army of 120,000 young citizens, well armed and well trained, would deter all nations from an attempt at invasion. The truth being, that there are not more men recruited for the new regiments than would fill the permanent army, of course no extraordinary expense will be incurred beyond the usual estimated expenses of the army, except that of the officers of the twelve regiments; the amount of which was not such as in his opinion ought to induce a conduct that would have but too much the appearance of versatility in our Government. He should therefore vote against the motion, under a firm reliance that the recruiting service would be stopped immediately.

Mr. HARPER said: What, Mr. Chairman, would be the effect of this motion, if adopted, on the negotiation now pending between this country and France? What would be its effects on the state of this country should the negotiation fail? Such are the questions which arise out of the resolution upon your table, and present themselves for the consideration of this Committee. So strongly am I impressed with their magnitude, that I should regard myself as a traitor to that country which gave me birth, and in defence of which I drew my sword before fifteen years had passed over my head, dead to every feeling of that patriotic affection for it which I drew in with my mother's milk, were I to pass over, with a silent vote, questions so deeply interesting to its honor and welfare. These questions, indeed, have been so ably discussed, that I am far from hoping to urge any new reasons, or to adduce any additional information; but if I can renew the impression formerly made, which the length of the discussion may have in some degree obliterated, I shall consider the time which I may occupy as not wholly misspent.

What then, Mr. Chairman, let me be permitted again to ask, will be the effect of this motion, if adopted, on the success of our negotiation with France? What would be its effects on our safety should that negotiation fail?

The motion from which these questions arise, becomes infinitely more important and alarming to my mind, when combined with the avowed object for which it is introduced. Gentlemen tell us, most explicitly, that it is not on the success, but on the failure of the negotiation, that their motion becomes altogether necessary; because, in that case, the army, by the very terms of its establishment and of the act under which it was raised, is to be disbanded. The troops were enlisted to serve "during the continuance of existing differences with France." Should these differences be terminated, which is the object of the pending negotiation, the troops are disbanded of course. This gentlemen well know; and, therefore, they feel that their motion would be wholly unnecessary in case the negotiation should succeed. They even tell us, in plain terms, that did they consider the success of the negotiation as certain, they should feel very little solicitude

about the motion. An honorable gentleman from Pennsylvania (Mr. GALLATIN) declares that he should not, in that case, think it worth while to make this motion; and the honorable gentleman from Virginia, who brought it forward, (Mr. NICHOLAS,) fully concurs in this sentiment. But it is precisely because they think that the negotiation may fail, that they feel anxious to carry this measure. It is because they think that we may be left in a state of war with France that they wish to disband the army. It is because we may have to contend with a powerful and an insidious foe, which shall have refused to treat with us, and may meditate an immediate blow against our country, that gentlemen wish to deprive us of this arm of force for our defence. It is not in case of peace they wish to reduce, to disband, the national force, but in case of war; a war, too, against a Power whose constant policy it is to divide and conquer; to avail itself of every party contention, every internal discontent, every jealousy against Government, in order to disarm those on whom it intends an attack; to employ every act of intrigue, and hold out every insidious appearance of friendship, for the purpose of lulling into a false and fatal security the victim which it has destined for its future prey.

Sir, it is this view of the subject which strikes my mind with awful alarm. It is not foreign force that I dread, but internal division: it is not an attack from without that fills me with apprehension, but a weakness within, arising from timid counsels, which may prevent us from exerting our strength; from party animosity, which may render one half of the country the instrument for destroying the other; from jealousy of our own Government, which may prevent us from entrusting it with the means of defending us against the enterprises of another. I have heretofore been charged with endeavoring to spread alarm; and I have confessed the charge; for, when I feel alarm, I hold it my duty, as one of those persons to whom this nation has confided the task of watching over its safety, to spread that alarm. When danger is abroad, it is the duty of the sentinel to give the alarm; and it is by being alarmed that, alone, we can be saved. And I confess, sir, that when I see men, no doubt of the best intentions, so blinded by the spirit of opposition, so carried away by party animosity and jealousy of the Executive, as to struggle, with all their might for the disbandment of the army in the midst of a war; as to contend, with the most persevering zeal, that the failure of the negotiation is the precise case in which we ought to divest ourselves of our only regular disciplined force, I do feel extreme alarm, and am most awfully anxious for the fate of my country. This alarm it is my desire to spread, for I am fully convinced that unless we take the alarm, in occasions like this, we must be lost.

But to return, Mr. Chairman, from this digression, into which I was irresistibly impelled by the force of my feelings, let me be permitted to discuss the first of the two questions which present themselves for our consideration. Let me inquire, what must be the effect of this motion, should it succeed,

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upon our negotiation with France? Out of this question, sir, will arise two others, which ought to be separately considered. In what manner must the French Government be affected, in the pending negotiation, from this measure? How must it affect the conduct of our own Government? Under these two points of view, permit me to examine the measures.

When gentlemen who support this motion, have endeavored to answer the question, "in what manner the conduct of the French Government, in the pending negotiation, must be affected by this measure?" they seem to me to have fallen into a great, I had almost said an unaccountable, mistake. They have spoken of the amount of the force which it is the object of this motion to reduce, and they have triumphantly asked, "Will France be deterred or overawed by an army of ten thousand men? Will her Government, after having broken and triumphed over one most formidable coalition, and successfully resisted the progress of another, be induced to treat with us by the fear of this handful of troops? Will she regard this as the whole force we have to resist her, in case she should attack us?" To all these questions, sir, I answer no. She will not be deterred by this handful of troops. The fear of ten thousand men will not induce her to treat with us. She will not consider this as the only force which we can oppose to her attacks. But these, sir, are not the true questions to be determined. France will not advert to the mere amount of force to be reduced, but to the spirit to be displayed by the reduction. This is the point of view and the only one in which she will regard this measure; and the impression which it is calculated to make on her, in that point of view, is the important subject which we are now called to consider. What inference with regard to our situation and our councils, will France draw from a disbandment of our army at this moment? How will that influence affect her conduct in the negotiation? These, sir, are questions which it is our duty to solve, before we adopt the resolution on your table.

Will France consider this disbandment as an indication of a want of strength, of want of means, of inability to support this force? No, for she well knows the extent of our means, and the greatness of our strength. She knows them from the exertions made under her eye, in the Revolutionary war, at a time when we were but infants compared with our present state. She knows them from the exact information which she possesses respecting our commerce, our maritime wealth, our population, our finances, and our rapid increase. On all these particulars we cannot doubt but that she is perfectly well informed. It has been at all times a leading maxim in the policy of her Government, to spare no pains or expense in acquiring the most accurate information on all these points, respecting the countries comprehended in her political system. For this purpose she has at all times maintained skilful agents in all the countries with which she had connexions. Can we suppose, even for a moment, that she has departed from this maxim in our case? We know that she

has not. Besides the secret agents, whom there is every reason to believe that she has always kept amongst us, we know that there resided here, for three years, a person of the most comprehensive, active, and discerning mind, unwearied in his pursuit of information respecting our affairs, and perfectly well qualified for obtaining it. We know that this person was recalled to France and placed in a very high and influential station in her Government. We know that he carried with him the most exact information that has ever gone to Europe respecting everything in this country that can be known by a foreigner. And although he has since been removed from his official station in France, yet there cannot be a doubt that the communications which he made and the opinion he impressed have had, and will long continue to have, a powerful influence on the conduct of his Government towards this country. The facts which he related and the statements which he was in a condition to make, and no doubt did make, will at least remain and be remembered; and they are sufficient to inform the Government of France that our strength would be great were we disposed to exert it, that our means are extensive and abundant should we resolve to employ them. That such is, and from the beginning of her present struggle has always been her impression, is rendered perfectly manifest by the anxiety which she has shown and the pains which she has taken to draw us into the quarrels on her own side. She well knew the use of such an ally; she was fully assured of the aid which we could afford for the accomplishment of her great purpose, the destruction of the English commerce and marine, and therefore, with a policy equally profound and comprehensive, she early took every step in her power to secure this aid. We well know that early in the year 1793, as soon as her contest with England had commenced, she sent a Minister here for the express purpose of inducing us, by every artful pretext and insidious contrivance, to join her in the war. We know that when her intrigues were baffled, she resorted to menaces and violence for the same purpose. All this proves, in the most undeniable manner, that she has a very high and adequate opinion of our force. Her desire to gain the disposal of this force would not otherwise have been so ardent, nor her mortification and rage so excessive at finding herself disappointed. She will not therefore, she cannot, consider this measure as an indication of our want of means. She well knows that we possess them. She has hitherto found that we were not only too wise to be inveigled by her insidious policy, but too strong to be bent by her force. In what light, then, will she consider this measure? She will consider it, sir, as a most decisive proof that our divisions have arisen to such a height as to render us incapable of exerting our strength; that although we were, for a moment, roused into something like spirit, by the unheard of insults and indignities wherewith she loaded us in the wantonness of her pride, we are of a character too feeble and timid to support, with persevering courage and unshaken firmness, the hazard of a great conflict; that our people are too jealous of each other

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and of their Government to unite, for any length of time, in vigorous measures; too inert to support the fatigues of a continued exertion, or too avaricious to pay its expenses. That our Government is feeble in itself; destitute of confidence in the magnanimity and patriotism of the nation; or so clogged in all its movements, by the opposition of a powerful party, as to be rendered incapable of adhering with steadiness to any great and manly system for the protection of its honor or national rights. That there exists among us a great and powerful party which is impelled by party spirit, by animosity against its rivals, by jealousy of the Administration, by its own political system, or by whatever other motive, to exert all its force with unabated zeal, and at length with complete success, for wresting from the Government every means of defence, for depriving it of all means of exerting national force, for robbing it of all hope of public support, by withdrawing from it, completely, the public confidence. That this party, in fine, about whose existence she is but too well informed, and whose principles and views it is not natural for her to mistake, has at length obtained an ascendancy in our councils, and will not fail in the pursuit of its own plans, whatever they may be, to serve effectually her cause, by tying up the hands of the Administration, separating the nation from the Government, and neutralizing, by means of that division, the national force.

These, sir, are the circumstances of which this motion, if adopted, must be considered by France as a certain indication. Believing these circumstances to exist, she must consider our wealth, our population, our commerce, our capital, our shipping, in fine our national means, not as a force to be dreaded, but as a prey to be seized. The greater these means, the richer will be the spoil, and the more eager she will be to seize it, and to continue the quarrel which is to furnish the occasion. But resist the motion and all these indications are at once wrecked; she will then consider our national means, not as a prey to be seized, but as a force to be overcome; and, knowing as she does, the extent of those means, she would be induced to put an end to a quarrel from which she would see there was so little to be gained.

Mr. Chairman, we know the men who guide the councils of France. We have seen their conduct for six years past. Unfortunately for mankind, they have acted a most conspicuous part on the theatre of the world. We have been enabled to discover their characters, their views, and the means, as well as the object of their political system. We know that it is by fomenting internal discontent, by availing themselves of the weakness resulting from the jealousy of Government, and party divisions, that they have triumphed and still hope to triumph over other countries. In other countries they have found parties that aided their views; and when they see a party here pursuing measures exactly similar, why should they not expect some aid from that party? Sir, I speak not of the motives of gentlemen—God forbid that I should doubt, much less call in question the purity of

their motives! Among those who support this motion, there are many with whom I have the advantage of being much acquainted, whose characters I highly respect, and whose intentions I believe to be most upright. But I am constrained—it is my duty—to speak of the effects of their conduct; and I must remark, that those effects will be precisely the same, from whatever motives their conduct may flow. If France find a party among us which strips us of our defence in the midst of a quarrel with her; which disbands our regular disciplined force at the moment when our negotiation shall have failed; it is the same thing, in her view, whether this be done through a mean and foolish parsimony, through versatility and weakness of character, through party spirit, animosity against the Administration, jealousy of the Government, or a direct intention to promote her views. In either case she will consider her views as promoted; because, in either case, the country will appear to her to be left at her mercy. Sir, she will have ground for this opinion—the ground of experience—for she has found her views most effectually promoted by a similar state of things in other countries. The example of other countries cannot be too often recurred to, for it is from the misfortunes and errors of others that, if we are wise, useful lessons for our conduct will be drawn.

Let it then be remembered, Mr. Chairman, that the independence of Switzerland was subverted by a party; not a party among the people, for they were united, and were attached to their Government, and eager to defend their country; but a party in the Government itself. The example of the deplorable effects of foreign force and intrigue aided by internal division, has already been noticed, but it cannot be too often held up to our view, for nowhere else shall we be able to find so many points of resemblance with ourselves, so many considerations applicable to our own situation. Let me therefore be permitted to dwell for some time on this most interesting and affecting picture.

When I speak of Switzerland, Mr. Chairman, I mean to be understood especially of the Canton of Bern—the most powerful by far of the whole confederacy, and the only one able to exert a great force of itself, to stand as a bulwark for the rest, and to give union and system to their common efforts. The people of Bern, sir, were not that oppressed and degraded peasantry, of whom an honorable gentleman from Virginia (Mr. RANDOLPH) has spoken, and whom he represented as being so ground down by the miseries resulting from their own Government, that they fled with joy into the arms of the invaders, for protection against their domestic tyranny. Let me inform that honorable gentleman, that there was neither misery, oppression, nor discontent among the people of Bern. Nowhere was more happiness to be seen; nowhere more prosperity, more comfort, more security for person and property, a more perfect exemption from the burdens of taxation, more contentment to be found. In addition to the united voice of every historian and every traveller, who has viewed or attempted to represent this delightful

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picture of human bliss, let me refer the honorable gentleman from Virginia to the testimony of a gentleman who now hears me, who has a personal knowledge of that once happy people, and from whom the honorable gentleman may derive much useful information on this and many other subjects. That gentleman will inform him, as he has informed me, that the Government of Bern, however defective in theory, was, in its practice and administration, the best that mankind has ever seen; that there was no tyranny and no misery in Bern; that the people loved the Government, and were at all times ready to fight in its defence; that the Government cherished the people, and maintained them by a tender and paternal exercise of authority, in the possession of every blessing which Government was originally instituted to secure. Among such a people, there could be, there was no party division. The Government, indeed, was in the hands of a certain number of families, they were numerous, and operated as a check upon each other; they were venerated, and that veneration produced a willing obedience to their authority; the manners of the country were pure, and those manners contributed largely towards preventing the usual abuses of power. The mass of the people was excluded, indeed, from all share in the Government, but they felt all its blessings, and were willing to be exempt from its labors and its cares; and any among them who became distinguished by their talents, their virtues, or their services, found an easy admission into the order which held the Government. In fine, sir, they were wedded to it by the habits of three hundred years, during which it had existed in prosperity and honor. But, although there were no divisions or discontents among the people, two parties existed in the Government itself. These parties, as in all other Governments partaking of a popular nature, long struggled for superiority and rule, but, until the French Revolution broke out, and the war which its leaders, to serve their own purposes, immediately excited against the great Powers of Germany approached the borders of Switzerland, those struggles were productive of little injury. The shock produced by those events was soon felt in Switzerland. The party which at the same time possessed the chief magistracy of Bern, foreseeing the danger whereto the country would be exposed, attempted to adopt a firm and vigorous policy, to put the country in a state of defence, and to take measures for causing its neutrality and its rights to be respected by France, when a disposition to disregard both was early displayed. The opposite party, which, let it be remembered, sir, was not a French party, and would have spurned the imputation of French prepossessions, much more of French connexions or views, with the utmost indignation, did not fail, however, to oppose all these attempts, sometimes on the ground that they would irritate France, sometimes because they would be too expensive, and sometimes because there was no danger. During the whole war this conflict continued. One party took hold of every favorable occasion to use its system of defence and prepara-

tion, while every new injury or insult from France was palliated by the other, which, aided by the cautious policy of the French Minister in Switzerland, by the fear of expense and exertion natural to the people everywhere, and by the indolence of character which wealth and a long continued peace had produced, perpetually succeeded in its opposition, and kept the nation in an alarmed state.

Many injuries were endured, many insults were submitted to, but no direct attack was made on the part of France while the war with the Emperor continued. Sufficient materials for a future quarrel were however provided; and no sooner did the House of Austria make a truce with France, by which the latter was left in possession of Italy and the Rhine, than this quarrel was openly begun, and an attack on Bern, which alone stood in the way of France, was secretly planned. For this purpose a part of Bonaparte's army commanded by General Brune, was ordered to advance into the neighborhood of the Pais de Vaud, a part of Bern, and to support a handful of wretches, who had been excited by the French Government to rise in insurrection. One party in the Government of Bern wished to send a general to suppress this insurrection, and drive off Brune's army, which was not considerable in force. The other party, which called itself the peace party, and which acted and talked as our pretended peace party has always done, opposed this measure with success, and procured a negotiator to be sent instead of a general. This negotiator was also entrusted with military powers, but he belonged to the peace party, abandoned the country to the insurgents and to General Brune, with whom he entered into a negotiation instead of fighting him. The consequence was, that Brune advanced into the Pais de Vaud, took possession of it, revolutionized it, and conquered it, although nineteen-twentieths of the people were firmly attached to their Government, and ready to risk their lives in defence of the country, had there been any one to unite and direct their exertions. Having achieved this conquest, and levied an enormous contribution for the supply of his army, General Brune advanced to the frontier of Bern itself.

This invasion, however, roused the nation and the Government. The peace party, which still talked of irritation, and of expense, and of negotiation, was overborne, and preparations were made for a vigorous defence of the country. In this state of things, Brune found himself too weak for the enterprise, and had recourse to negotiation, till another body of troops, amounting to twenty thousand, could be brought from the Rhine, by General Shauenburg, to his aid. He sent negotiators to Bern, to negotiate with the peace party, and by means of the peace party to suspend the measures of defence till Shauenburg could have time to arrive. The peace party entered into his views; they negotiated; the measures for driving Brune out of the country were suspended, and Shauenburg advanced by rapid marches. At length he approached the opposite frontier, got possession of the passes which lead into the country, and attacked one of the neighboring cantons.

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Then the Canton of Bern again roused itself. The people called aloud on the Government to take measures for the defence of the country, and demanded to be led against the enemy. The pretended peace-makers were silenced, the real friends of their country gained a majority in the Council of Bern, and General D'Erlach received orders to take immediate measures for attacking the enemy and driving him from the country. The patriotic enthusiasm of the people soon supplied him with an army of 30,000 men; the confidence of the nation revived, and the country was on the point of being saved.

Now begins the mournful history of the delusion of party. General D'Erlach left the Council, of which he was a member, and went to take the command of the army. One hundred officers, also members, attended him to the field. Their absence threw the majority again into the hands of the peace party—the party that talked of negotiating with an advancing enemy, of expense, of irritation, of the horrors of war. This band of misguided and timid men, led on and instigated by a faction of modern patriots—not such as Cato, as Hampden, or as Washington, but of that bastard race of patriots of the present day, whose patriotism consists in devotion to the will of France—struck the blow under which their country sunk, perhaps to rise no more. Availing themselves of the majority thus acquired, they obtained a reversal of the orders to General D'Erlach, and procured an order that he should retreat. This fatal order, the pretext for which was to avoid irritation and leave the door still open for negotiation with an invading advancing enemy; this order once given, the energy of the nation was completely unstrung. The people and army of the country, astonished and indignant at this very unaccountable weakness and versatility, which they attributed to the treachery of their Government and their officers, gave up the public cause in despair. Some refused to obey, some fled to their homes, and some turned against their officers those arms which they were not permitted to employ against the invaders of their country. Everywhere distrust, confusion, and flight, were seen, while the enemy, feeling the favorable moment, advanced with rapidity against the city of Bern, in different directions. Then the last struggles of despair took place. A brave people, deprived of leaders, deprived of government, deprived of all means of resistance except such as despair could supply, threw themselves between the enemy and their homes, their families, and their altars. The wife fought by the side of her husband. The aged grandsire, the youth, and the tender virgin, fell in the same ranks. The scythe and the pitchfork supplied the want of the bayonet and the sword. Glorious, but unavailing efforts! Unavailing to you, brave and self-devoted Swiss! but useful to us, were we willing to profit by the lesson. Useful in teaching how fruitless is valor unaided by discipline, how little can be effected by the most exalted patriotism, the firmest union, in a nation, unless the public spirit be sustained, the public exertions systematized, combined, and directed, by a wise and

vigorous Government! The catastrophe, sir, is known. Bern fell, and with her fell Switzerland; affording, in their fall, a mournful but impressive example of the mischiefs resulting from weak and versatile counsels, from party jealousy and animosities, from distrust of our own Government, and blind security as to the designs and projects of our neighbors.

This awful example, Mr. Chairman, passed under the eyes of France; and the reflections which this example furnishes, she will, she must apply to us, and to our conduct. In Switzerland she saw her views accomplished by the aid of a party, which did not intend to aid her; by the feebleness, the timidity, the divisions, and the fickleness, which the efforts of that party, guided most probably by upright though mistaken views, were able to introduce into the councils of Bern. That party, sir, was not a French party. It was not a revolutionary party. It was not even a democratic party. It called itself a peace party. It talked of the expense of defensive preparations; of the danger of irritation; of the horrors of war; of the improbability, not to say the impossibility, of an attack by France. When France sees the same measures pursued, finds the same language held, by a party here, and sees the efforts of that party so far successful as to effect a disbandment of the army at a moment like this, may she not, will she not, nay, sir, must she not expect the same final result? must not her conduct in the negotiation be guided by that expectation? She will say, "The conduct of this party, like that of the party in Bern, proceeds, perhaps, not from attachment to me, but from jealousy of their own Executive, from the spirit of opposition, from animosity against their rivals who are in power; but, from whatever cause it proceeds, its effect is to stop the Government of all means of defence, and to lay the country at my mercy." Sir, this must be her reasoning, and by it her conduct must be regulated. Elated by success in one country, she will expect it in another and that expectation will embolden her to the attempt. Can any party be more honest than the party in Bern? Sir, I believe not. Can any people be more patriotic, more brave, more devoted in their country's cause, than the people of Switzerland? They cannot. Can our hardy mountaineers sacrifice themselves in defence of their mountains, with a courage more truly Spartan, than was displayed by the shepherds of Unterwald? Sir they cannot. Can our farmers die with more heroism in defence of their firesides and their families, than died, I will not say the men, but the women, and children of Bern and Solure? No! no! they cannot. Yet they perished. Their means were abundant, their courage was undismayed, their patriotism was ardent and pure; and yet they perished, because the efforts of a party in their Government prevented them from using those means. France found in that party a most useful ally; and, by its aid, her arts and her arms triumphed over the bravest, the most virtuous, and the truest people that Europe could boast. Sir, let the mournful, the instructive truth, be again repeated, and never forgotten;

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it was in the Council of Bern that the conquest of Switzerland was achieved. And it is on this floor, sir, that, from the example of Switzerland, France will expect to achieve the conquest of the United States, should she see measures like that on your table adopted.

The resolution on your table, sir, would manifest, or be considered by France as manifesting, the same weakness, the same division, the same preponderance of a party steadily opposed to every measure for resisting her encroachments and her attacks; and the success of it must give her hopes, and apparently well grounded hopes, of the same success here, which she has seen to result from a similar state of things in Switzerland. These hopes must lead to a resolution, on her part, to bend us to her will, whenever she may find it convenient to make the attempt; and in the meantime, to pass over our demands of justice with contempt, or repel them as formerly, with haughty insult.

Such, Mr. Chairman, in my apprehension, must be the effect of this resolution, if adopted, on the Government of France. What must be its effect on the conduct of our own Government? This is the question next to be considered.

I cannot suppose, sir, that gentlemen wish to place the Government of this country in such a situation, that it must feel itself deprived of the public confidence, deprived of the national support, and compelled, through a sense of weakness, to subscribe to the terms which France may choose to dictate; but such, I conceive, must be the effect of adopting this resolution. The language of this resolution to our Executive is this: "We cannot trust you with the means of defending the country. Even in case of a conflict with France, we will deprive you of those means, lest you should abuse them. Besides, we cannot afford the expense of those means. We cannot pay for an army capable of defending the country, even should it be invaded; and, therefore, you must arrest the danger, as well you can, by submission." Whatever different explanation, sir, gentlemen may give; whatever they may say about the want of motive, or the want of means, to invade us, on the part of France; whatever they may say about the all-sufficiency of a sudden effort of militia, hastily collected together, without officers, without discipline, and without the possibility of acquiring it, to defend their country against the attacks of disciplined and veteran armies; this is the plain language of their resolution; this is the manner in which all men of sense must understand it; thus it must be understood by the Executive of the United States. It must go into the negotiation with a thorough sense of its own weakness, of its abandoned state. It must find itself discouraged from demanding fair and honorable terms, precisely in the same proportion and by the same means that the Government of France is encouraged to refuse them. The tendency and perhaps the effect of this view of things, must be to strip it of all that manly energy, of that lofty magnanimous spirit, of that unshaken firmness, which are essential for the preservation of the

national rights and honor, in a negotiation with such a Power as the French Republic.

Such, Mr. Chairman, in my apprehension, is the effect which this resolution, if adopted, must have on the success of our negotiation with France. What must be its effect on our situation should that negotiation fail? This is the question which next demands our consideration.

In discussing this question, gentlemen have affirmed, and made it the groundwork of their reasoning, that there can be no danger of invasion from France, even should the negotiation fail. What object, they ask, could France have for invading this country? What means has she of effecting such an enterprise were it her desire?

As to the objects for invading us, sir, I will answer that question by another. What object had the French Government in sending Bonaparte to Egypt? The object must have been conquest or plunder on the one hand, or, on the other, the desire of getting rid of a general whose talents, ambition, and influence they dreaded, or of employing, rewarding, or banishing an army whose claims they were not in a condition to satisfy, on whose obedience they could not rely, and of whose enterprising valor and attachment to their chief they were justly afraid. Some, perhaps all, of these motives must have induced them to send Bonaparte with an army of forty thousand men to invade Egypt.

Now I shall ask gentlemen whether all these motives do not exist, in a stronger degree, in our case, than in the case of Egypt? Are there, or can there be, no more enterprising armies and powerful generals whom the Government may dread, and wish to get rid of? In case of their making peace with Austria, an event very probable, will there be no more troublesome, discontented armies, whom it may be impossible to pay, and necessary to employ in distant enterprises, in order to prevent them from doing mischief at home?

Would not the plunder of America, be an object as inviting to such an army, as the plunder of Egypt? Would not the rich shores of the Savannah, the Potomac, the Chesapeake, the Delaware, and the Hudson, yield as plentiful a crop of pillage as the barren sands of the Nile? Would not Boston, New York, Philadelphia, Baltimore, Norfolk, Charleston, and Savannah, present as rich a spoil as the miserable remains of Alexandria and Cairo? Would not the conquest of America be as fine a feather in the cap of the old, or some new, Bonaparte, as the conquest of Egypt or Syria? Gentlemen say there is nothing for France to get by invading us. Sir, is the worth of our towns nothing? Would it be nothing to have the disposal of six millions of population; of our revenue; of our banks; of our shipping, amounting to upwards of 800,000 tons, exclusive of ships of war; of our immense funded capital; of fifty thousand sailors; of our ports and harbors; in fine, of the resources of this great people? Would this be nothing to France? Would it be nothing to her to be enabled to employ these resources against the commerce and settlements of the English in the West Indies, where the maritime power of that nation is susceptible of so deep and deadly a wound?

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Would it be nothing to her to gain the entire disposal of our means, as she has gained that of the means of Holland, Switzerland, Belgium, and, till very lately, of Italy.

But gentlemen say she cannot gain all this without conquering the country, and that such a conquest she cannot effect. I grant, sir, that she can never effect it; but she may hope to effect it, by the same means which she has found successful elsewhere; and that hope will be sufficient to induce the attempt where the prize is so alluring. The success of this motion would be considered by her, and with great appearance of reason, as a decisive proof of the existence, in this country, of the means which have enabled her to conquer others, and would, therefore, add new confidence to her hopes of success here. In all probability, she would not wish to effect what gentleman would call a conquest, she might not even hope it. But her purpose would be completely accomplished, by placing herself at the head of that party which she considers as favorable to her views, by aiding that party to possess itself of the Government, and then compelling it to rule according to her will. This she has done in other countries, and she will hope to do it here also. Nothing could tend more to strengthen this hope, than the success of a motion like the present. And let it be remembered, sir, that when we speak of the attempt which France may be led to make, we are to consider, not the actual probability of success, but the hope which she may entertain of success; for it is by that hope that her conduct will be regulated. Besides, sir, it is not necessary that she should hope for the conquest of that country, or even to revolutionize it in her usual way, in order to induce her to attempt an invasion. In the case of her wishing to get rid of a troublesome army, or a dangerous chief, or both, a case which probably has once happened and certainly may happen hereafter, the success of the invasion would be a very secondary consideration. The hope of plunder would allure the troops. The hope of glory would allure the leader. If conquest should result, it would be a gain to France. If the troops and the leader should be destroyed, which I have no doubt would happen, still she would gain. In one case she would extend her power; and in the other, she would rid herself of a dangerous and troublesome burden. France, therefore, Mr. Chairman, can never want an inducement to invade us. Can she want the power? I answer that she cannot.

On what do gentlemen rely, when they say that France cannot invade this country? Do they rely on her want of troops? If so, let them remember that she found forty thousand men to send to Egypt. Do they rely on her having full employment for all her troops against the Austrians and Russians? Let them remember she may suddenly make peace with the Austrians and Russians, as she did with the Austrians in 1797; that such an event grows every day more probable; and should it take place, she will have troops very fit for such an enterprise, and very ready to be employed in it. Do they rely on a want of ships? Let them remember that she found ships enough to transport

forty thousand men to Egypt, and a fleet of thirteen sail-of-the-line to escort them, and that having gained possession of the Spanish fleet, she has now a much greater naval force at her disposal than heretofore. Do they rely on the superior power of the British at sea, and on the vigilance of their fleets? Let them remember that in 1797 General Hoche got out of Brest with a fleet and a considerable army, eluded two British fleets which were watching him, entered a port in Ireland, remained there several days, and after being prevented from landing by the bad weather, again eluded the British fleets, and got back to France with his fleet and his army. Let them remember that when Bonaparte sailed from the ports of France on his Egyptian expedition, he was watched by a superior British fleet, under the command of one of the ablest, most active and most enterprising naval commanders that ever England could boast; that he eluded this fleet, arrived safe at Malta, and had time to conquer that important place before the British admiral could find out where he was, and come up with him; that he sailed from Malta, and, notwithstanding this fleet was in full pursuit of him, arrived in Egypt and made good his landing, without the least molestation; that his fleet might, after landing him, have returned safe to France, had not some unaccountable fatality induced the Admiral who commanded it to remain for many days in a situation where it was exposed to the attack of the British; and that when Bonaparte had once escaped near the ports of France, from the British fleet which watched him, it was as easy for him to go down the Mediterranean, and through the Straits, to America, as up the Mediterranean to Egypt. Let them remember, in fine, that in the course of the last year, a French fleet escaped from Brest, and having eluded the British fleets that were in that quarter and near the Straits, passed into the Mediterranean; that having drawn after it the British fleets which blockaded Cadiz, and thereby enabled the Spanish fleet to follow it into the Mediterranean, it formed a junction with that fleet, escaped from the British who were in pursuit of them, repassed the Straits into the Atlantic, and returned safe to Brest, and that during the whole of this long and circuitous voyage, the French and Spanish fleets were watched and pursued by superior British fleets. Do they rely, sir, on the distance? Let them remember that when a fleet has once escaped into the open sea, the danger of meeting the enemy is almost past, and that the distance is a matter of small moment; that when the Brest fleet, having got into the Atlantic, turned to the East and went into the Mediterranean, it could as safely and as easily have turned to the West and gone into the Chesapeake; and when the two fleets had formed their junction in the Mediterranean and returned into the Atlantic, the course to New York or Charleston was as plain, and far more free from the danger of an enemy's fleet, as the course to Brest; and, in fine, that during our Revolutionary war, the French did find means, notwithstanding the distance, and the naval superiority of England, to send fleets and armies to this country.

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Sir, what has been done, may be done again. It is even more easy, I affirm, and every man of reflection will concur in the opinion, to invade America than to invade Ireland; because Ireland is nearer to the British, and can more easily be watched by their fleets. There was more difficulty in going from Brest into the Mediterranean, than from Brest to America; because the British fleets could watch, and did watch, one route, but could not watch the other. When we wait for a fleet at a port from or to which it is bound, or at a cape, round which it must pass, the chance of finding it is a thousand times greater than when we search for it in the wide ocean, uncertain of its course or its final destination.

And yet gentlemen will tell us, that France has neither the means, nor the inducement to invade us; and that although our quarrel with her should continue, yet we ought to rest secure, and disband our troops. Sir, she has both the means and the inducement; and if we, by measures so weak, give her hopes of success, she will make the attempt. The use of this force is to deter her from the attempt, by showing her that we mean to resist, and to be prepared for doing so with effect. I will admit, sir, that this army might be sufficient to deter her from invading us with a great force, if she were disposed and able to do so. But we must bear in mind that a small force, an army of ten or fifteen thousand men for instance, is much more easily spared, and much more easily transported than a large one. I do believe that she will never find it convenient to send a large force here. Her want of pecuniary means, her want of ships, and the hazards of the enterprise, will very probably prevent her from making again so great an exertion, as that for the invasion of Egypt. But these circumstances would not so certainly prevent her from sending a smaller force against us, either for conquest, or plunder, or to get them out of her way. Here, then, is the first use of this army. Its first use is to prove to France that we cannot be invaded with effect, or with impunity, by a small force; that we mean to resist, and are so prepared for resistance; and by that conviction to deter her from making the attempt with a small force. Her financial embarrassments, and the state of things in Europe, will probably be sufficient to prevent her from using a great one against us, and we shall be safe. On the contrary, if we disband this army, she will consider the country as an easy, as well as a rich prey. She will suppose that we are too timid in our counsels, too much divided, too jealous of each other, and of our Government, too avaricious to make any exertions for our defence. She will suppose that ten or twelve thousand veterans, under an able leader, and with a few ships-of-the-line, will be able to insult, pillage, and distress the country with impunity; and perhaps with the aid of a party here, of whose existence, force, and views, she will consider the success of this motion as a decisive proof, to overturn the Government, revolutionize the country, and place its affairs under the control of her partisans and creatures. A prospect so alluring will probably induce her to

make the attempt, as soon as she can spare a handful of troops and a few ships for the occasion. To deter her from such an attempt under such circumstances, by taking away this alluring prospect, is, let me repeat it, the first use of this army.

To enable us to resist with more promptness and more effect, if she should resolve to invade us, as she did Egypt, with greater means and more direct views, is its second use. Suppose Bonaparte, or some of his brother adventurers, to appear with forty thousand men, and thirteen sail-of-the-line, at the mouth of the Chesapeake, as he did at the mouth of the Nile, and to make good his landing. The case, sir, let it be remembered, has once happened, and may happen again. Suppose it to have happened, would the army which gentlemen propose to disband be of no use? Sir, they would be of the utmost use. Not as superseding a militia of the country, but as aiding them; as being a centre to which they might collect; as furnishing the means of giving them discipline and military knowledge. Gentlemen have chosen to treat this question, as if all who support the necessity of a regular force, or of what they, for purposes best known to themselves, choose to designate by the odious epithet of a "standing army," were desirous of disuniting and discrediting the militia. This is one of the expedients whereby popular odium is perpetually attempted to be excited, but, sir, the reputation is unfounded. We think highly of the militia, we rely much on them; we know that they are the materials out of which any efficient force for the defence of this country, in a great struggle, must be made; we have no doubt of their patriotism and courage; but we know from our own experience and that of other nations, that patriotism and courage are not enough for soldiers; that without discipline, military science, command and subordination, they are unavailing in a contest with troops possessing those advantages. The exploits of militia during the American war are often talked of. I admire them, sir, as much as anybody; but let it be remembered that those exploits were performed near the close of the war, when the militia, by frequent and long service, had acquired much of the character of regular troops; that they were performed by short and sudden efforts, which militia will readily make, and which are infinitely different from those long continued, steady exertions, those painful evolutions, those patient and tedious manœuvres whereon the success of a campaign, and of a war, almost wholly depend, and to which regular troops alone are equal; that, in fine, they were performed by small detachments, for the most part, of two, three, or four hundred men, in a sort of partisan, skirmishing war, where the want of discipline, military subordination and tactical knowledge, is infinitely less felt, and less pernicious than in large armies.

Let a man collect together any army, of even ten thousand men, where officers and privates are destitute of military habits, military knowledge, and regular subordination, and who are bound to service for only a short period of three, four, or five months, for instance; and let him attempt to make a campaign with such an army against a regular

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force. He will soon find its utter insufficiency. Let him double or treble the number, as in case of any great exertion, and the confusion will be increased in proportion. His troops would be brave, but they would neither be patient, nor obedient. They would be willing to fight, but unwilling to keep the field. They would not fear the enemy, but they would grow disgusted with the slowness of the operations, the toils and inconveniences of the camp, the hardships of the military life. And their general would be in perpetual danger of their abandoning him, to go home, at the very moment perhaps when the operations of the campaign were most critical and important. Nay, sir, their term of service must always expire before any great scheme of military operations would be completed.

The consequences of all this are easily foreseen, nor can they be prevented without having, at least, a considerable portion of regular troops, to give consistency to the operations, confidence to the militia, discipline to the new levies, and some degree of stability to an army, a great part of which must, from its very nature, be subject to perpetual changes.

An honorable member from Virginia, (Mr. RANDOLPH,) in proof of the efficiency of militia, has adduced the example of the French conscripts or requisition men, and he tells us that in case of a war in this country, we also must have recourse to requisition. If that honorable gentleman, by the term requisition, means no more than a draught of militia for that period, and according to some rule of rotation, I agree with him that we must always have such requisition, when the militia is to be called out. But if he means the French requisition, which I cannot suppose, I then answer, that the example is worthy of execration and abhorrence, not of imitation. Nay more, sir, that it never can be imitated in this country. I say that the American nation can never be forced to submit to so horrible a despotism, as that which exists in France under the name of a Republic, and enforces the requisition of that unhappy and degraded people. No, sir, while the free spirit of this nation and its ardent attachment to liberty still exists, which I hope and believe will always be the case, a French requisition can never be enforced here, even should that revolutionary state of things which some gentlemen seem to desire ever be produced. Does that honorable gentleman, sir, when he talks of a French requisition and French conscripts, and recommends them to future adoption, know what they are? I am inclined to think that he does not: Let me be permitted to inform him.

A French requisition, sir, or conscription, is neither more nor less than a British impressment, about which gentlemen sometimes declaim with such warmth, with this single exception; that, in the conscription, men of a certain age are first taken before those of a more advanced age are touched; those from eighteen to twenty-five for instance, are taken before those from twenty-five, to forty; whereas, in a British impressment, all men of a certain class, that is all seamen, are taken, whatever may be their age. With this difference,

which is altogether in favor of the impressment, the two things are precisely alike. The conscript is seized by force, and if he absconds, his father, mother, and family, are answerable for his appearance. He is carried handcuffed to the army. He is put into a regular regiment, under regular officers, subject to military discipline of the strictest kind, and obliged to serve till the Government have no farther need of him. When the conscript, or the impressed seamen, once gets into the regiment, or on board of the man of war, discipline, habit, association, and the difficulty of escape, all combine with the sentiments naturally inspired by action and the sight of the enemy, to make a soldier of one, and a gallant tar of the other. This is more especially the case with the Frenchman, whose characteristic valor and military spirit are so universally known, and who is always taken at the age most susceptible of all the sentiments which ought to fire a soldier's breast.

That new levies thus selected, thus raised, and disposed of, should soon become excellent troops, is certainly nothing very wonderful. The wonder is that gentlemen should compare such troops as these to militia draughted in the mode which we practice—to a body of men called by rotation from their farms into the field, to serve for a limited and short period, and under officers chosen by themselves, as unacquainted with military matters as they are unaccustomed to service, and as impatient to return home. Sir, the conscripts of France are, to all intents and purposes, regular troops, or a standing army, if the gentlemen like the phrase better; for I contend not about names. They have all the qualities and distinguishing characteristics of regular troops. They are dispersed into old regiments, among old soldiers, under regular officers, subject to every part of military discipline, and forced to serve an unlimited time. The only difference between them and every other regular army is, that, instead of being raised by voluntary enlistment, they are raised by arbitrary impressment. Yet this is the mode of raising troops which it is said that we must imitate, and because such troops fight and conquer, we are told that we need no regular troops, even in case of war!

I must here, sir, advert to an argument advanced by my honorable friend from Delaware, (Mr. BAYARD,) which an honorable member from Virginia (Mr. RANDOLPH) seems to have misunderstood. He has represented my honorable friend as having contended, that the force in question ought to be kept up for the purpose of overawing and curbing the discontents of the people. He is not capable of misrepresentation, but certainly he has wholly mistaken my honorable friend's meaning. Let me be permitted, sir, to state the argument as it was stated and argued by the member from Delaware. We are perpetually told that there is no need of regular forces, even in case our quarrel with France should continue, because the militia is the natural defence of the country, and a sufficient defence, on which we ought confidently to rely; and when we answer, what every man of understanding and reflection knows to be the truth, that militia, unless aided and supported by regular troops, are not to

be depended on for long continued and systematic operations, we are charged, most untruly no doubt, with wanting confidence in the militia, and wishing to depreciate their merits and their services. In reply to these charges my honorable friend from Delaware adverted to the unceasing and systematic efforts which are made to inspire the people of the United States with distrust and hatred of the Administration, to imprint on their minds a belief, that the system of measures pursued by it is calculated and intended to convert the Government into a monarchy—that such is the wish, and the constant aim, of the Executive, and of all those individuals who approve and support its measures, including a majority of both Houses of Congress; finally, that the principles of the Administration, as well as its measures, are hostile to republicanism. He asked whether those efforts, being constantly repeated, and aided, as we know them to be, by every species and degree of calumny, misrepresentation, and falsehood, might not, in certain parts of the country at least, be at length successful? He asked whether the people, some portions of them at least, might not at length be induced to believe that those who administer the Government, and those who support its measures, are not engaged in a scheme for the subversion of republicanism, and the introduction of monarchy? He asked where, in such a case, would be the reliance of the Government on the efforts of the militia? Sir, the question is serious and important; and I will repeat it. Where will be the reliance of this Government on the militia for the defence of the country, if the militia, or considerable portions of them, should at length be induced, by the unceasing efforts which are employed, to regard the Government itself as their greatest enemy? Is there no danger that their efforts may be successful? Sir, I trust there is not. I have always relied on the good sense and prudence of the American people, and I have never yet been disappointed. But when we consider the greatness of the efforts, the increasing zeal with which they are renewed, the systematic form which they have assumed, and the hand whereby they are guided, can we say there is no danger of their success? Sir, I speak not of the army of libellers, pamphleteers, newswriters, and profligate scribblers, of every name and description, that is cantoned regularly through the United States, openly supported by a political party, and employed most assiduously in carrying on an attack upon the character, public and private, of all those concerned in the administration of the Government, or known to favor its principles. But shall I not speak of a letter written by a person of great name in this country, in which the people of America are informed that an “aristocratico-anglico-monarchico” faction has arisen amongst us, that this faction includes the Executive and all persons employed by it, the judges, all persons in office, of every description; in fine, that whole description of men, in Congress and out, who are known to be friendly to the administration of the Federal Government; and that the object of this party is to impose on this country the substance of the British Government? Shall

I not speak of a most virulent manifesto lately issued by a Legislature of this country against the Government of the United States, under the name of instructions, where the highest sanction is given to the vilest calumny, and the Administration is plainly charged with laboring for the introduction of monarchy? Shall I not speak of answers to addresses, in which the most scurrilous abuse and foulest slanders are poured out upon that whole class of citizens who think that the Government of the United States has been well administered; in which they are stigmatized as old Tories, apostate Whigs, British agents, speculators, and sycophants of power? Shall we say that these attempts, thus made, are always to be without success? I believe, sir, for myself, that they will. I have a strong reliance on the good sense of the nation. I believe that these attempts will share the fate of that most malignant but contemptible effort which was made some time ago, from the same quarter, to fix the odious appellation of *Tory*—that is, in the common acceptance, a friend to monarchy and an adherent to Britain—on the supporters and approvers of Administration, including WASHINGTON; to call WASHINGTON a Tory!—an attempt which the nation laughed to scorn, and of which its very authors at last grew ashamed. These attempts, I believe, will share a similar fate in the end. They will finally, I have little doubt, draw on their authors the contempt of the nation. But this is not certain, and if they should succeed, sir, what will be the result? Yes, sir, if these persons should at length succeed by dint of repeated calumnies in persuading the people of America, or even certain portions of them, that the Executive of the United States, the whole Administration, and a majority of both Houses of Congress, are embarked in a scheme for the gradual introduction of monarchy, and are pushing it with might and main, at every favorable opportunity, and under every plausible pretext; I ask what reliance could be had on the aid of the people, in resisting invaders who should declare, as the French never fail to do, that they come to rescue the people from oppression, to subvert aristocracy, and establish true liberty? I say, sir, and I found the opinion on the experience of every country, that such people as should be impressed with this persuasion, must join the invaders instead of opposing them. For what, sir, did the people of America formerly take up arms, and call in the French aid? It was to subvert monarchy and resist the dominion of England. Once persuade them that their own Government is a British faction and aims to introduce monarchy, and the same principle will induce them again to take up arms, and hail the approach of foreign aid. Is there no danger of their being misled? Experience, sir, answers, and says that there is danger. What produced the Western insurrection? The calumnies, misrepresentations, and inflammatory resolutions industriously circulated on the subject of the still tax. What raised the insurrection in Northampton? The falsehoods propagated, for electioneering purposes, on the subject of the house tax. The people were told that the Government of the Uni-

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ted States wished to trample on their rights and liberties, and to establish monarchy; that a standing army had been raised for that purpose, and that the house tax was laid to support this army. This they were made to believe, and they resolved to resist the tax by force. And, sir, if one portion of the people can be brought by artifices of this kind to take up arms against the Government, might not other portions be induced, by the same artifices, to aid, instead of resisting, an invading French army? When we see these artifices practised, with increasing industry, and more extensive combination, ought we not to retain, in case our quarrel with France should continue, some force that may be more perfectly relied on?

Such, sir, was the argument of my honorable friend from Delaware; which I have been thus particular in stating, not only because it was misunderstood by the honorable member from Virginia, but because I think it worthy of most serious consideration. I do indeed trust, and believe, that these contemptible and malignant acts will, in the end, recoil on the heads of their authors; and I am firmly persuaded that in the mean time they will produce, at most, but some partial disturbances, which the patriotism and good sense of the neighboring districts will, as heretofore, put down without bloodshed or painful exertion. But, while I entertain this persuasion, still it must be admitted that there is some danger of a contrary result. Should that danger be realized, should any considerable portion of the people at length be made to regard their Government as the greatest enemy of republicanism and the public good, and of course to look with favor on an invading French army, where would be the reliance on the militia, about which we hear so much? Sir, let me repeat it, this is a most serious question.

An honorable gentleman from Virginia (Mr. RANDOLPH) has advanced one reason for disbanding the army, on which I must be allowed to make a remark. He has told us that in his part of the country, the very appearance of these troops excited the gall of the people. Sir, I trust that he is under a mistake. We have seen that the honorable gentleman himself has no gall. The sense of decorum and respect for himself, which we have seen him so strongly display, has indeed permitted him to bestow the harsh and unmerited epithet of ragamuffins on the army; but I am persuaded he did not mean to apply it to the whole army. Some handful of recruits, perhaps, whom the honorable gentleman has seen lately picked up in a town, and not yet clothed or drilled, may have suggested the term to his mind, and in the warmth of debate he has applied it in a manner more extensive than he intended. But even admitting that the army were ragamuffins, how could they excite the gall of the honorable gentleman's neighbors, or of himself? They ought to excite compassion, and not gall. Congress that voted them, or the Administration that had raised them, might excite gall, but as for them they did only their duty, and no part of the gall could fall on them. Instead of finding abuse and exciting gall, they would, I am persuaded, receive hospitality and kindness in the house

of that honorable gentleman and his neighbors. If really in the situation of ragamuffins, they would most probably be clothed, as well as fed, should they fall in the way of the honorable gentleman and his friends. He is therefore mistaken in the fact from which he adduces a reason for the disbandment of the army. His friends from Pennsylvania and Virginia (Mr. GALLATIN and Mr. NICHOLAS) have assigned a much better reason for making the attempt at this time. They have told us that they are anxious to get the army disbanded during the pendency of the negotiation, lest, after its failure, the public spirit should be so roused and the sense of danger become so general and strong, as to render the disbandment impossible. Sir, they are in the right. If the negotiation should succeed, the army will be disbanded of course. If it should fail, I do believe that the public mind would not bear such a motion as this unnoticed. The sense of this country never would tolerate an attempt to disarm the Government in the midst of a war against France. The gentlemen therefore act wisely to make the attempt now, when there is some chance of lulling the Legislature and the country into a false security. And this, and not the gall of the honorable gentleman and his neighbors, is the true reason why the measure is pressed at this moment. The honorable mover himself, (Mr. NICHOLAS,) with a candor which I always admire in his character, has avowed the motive; and, in this instance, his prudence is equal to his candor.

Give me leave now, Mr. Chairman, to make some few concluding remarks on the financial part of this question, which has been so much dwelt on by the supporters of the motion. Much, sir, has been said of the deficit in our revenue. Much has been said of the alarming state of our finances, which, according to some gentlemen, present an appearance more alarming than has ever been exhibited by the fiscal affairs of any other nation. Last year, having occasion to prepare for war, we were forced to expend five millions more than the product of our taxes, and this sum we borrowed. Being compelled to continue those preparations till we know the success of the negotiation with France, we shall have occasion for another loan this year, because our expenses will still exceed our revenue, while we remain in a warlike attitude. This excess gentlemen calculate very erroneously indeed, as will soon appear, at five millions for the present year; and they call it a deficit. What, they exclaim, a deficit of five millions, upon a revenue of nine! Was such a thing ever heard of before!

Sir, when gentlemen alarm themselves thus, they mistake the meaning of the word "deficit." If they will permit me, I will give them an explanation of it. The word "deficit," sir, does not mean the extraordinary expenses which a nation is forced to incur by a state of war or of preparation. These extraordinary expenses always are, and must be, far beyond the revenue of every nation. The war expenses of England, for instance, have sometimes amounted to thirty millions, when her revenue was only sixteen. The same thing, and in a much

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greater degree, may be said of the war expenses of France. But the word *deficit*, which was invented or brought into use by Mr. Neckar, applies, exclusively, to times of peace, and signifies a deficiency in the revenue from taxes, to meet the ordinary and permanent expenses of the Government. This was the deficit in the French finances, which brought on the French Revolution; and such a deficit must destroy every Government where it exists, unless it be cured by new taxes. But we, sir, have no deficit. When we were forced by the injustice of France into war preparations, we were so far from a deficit, that we had a clear surplus of a million. The moment peace is made, and we can lay down our war preparations, we shall again have a surplus, to be applied to the extinguishment of the debt which those preparations may oblige us to contract. While those preparations continue, our present taxes, with perhaps some small additions, will defray our ordinary expenses, and supply a fund for the interest of the loans which we may be compelled to make. To talk of a deficit, sir, in such a state of things, is to be guilty of an abuse of words.

Having corrected this mistake, I will now present the Committee, sir, with a short view of our expenditure and revenue for the present year, and of the amount which our war calculations compel us to provide for by a loan. As the returns are not yet complete, this statement will not be perfect. Some items will be omitted on both sides of the account, but, in the main, it may be relied on for a general result.

The interest of the old debt of every description, with the sums annually applied for its extinguishment, amounts for this year to	- - - \$4,215,981
The interest on the 8 per cent. new debt, is	400,000
The expenses of the Army, Navy, and Civil List, as estimated in the late report from the Secretary of the Treasury, amount for this year, to	- - - 8,162,923
The extraordinary expenses of foreign intercourse, Indians, and Algerines	- - - 80,000
An instalment due to the bank this year	- - - 200,000
Total amount	- - - \$13,078,904

To meet which we have the following revenue:

The import and tonnage duties, taken at the actual product of the last year, which was	- - - \$6,400,000
The internal revenue, including the stamp duties	- - - 800,000
Certain small revenues, arising from postage, dividend of bank stock, coinage, &c.	100,000
The direct tax of two millions, the whole of which will not be collected in the course of this year, but may be brought into the Treasury by a temporary loan in anticipation, which the President is authorized to make by former laws, and which will be repaid out of the tax when collected. The whole tax may therefore be placed to the credit of this year's revenue	- - - 2,000,000
Giving a total of	- - - \$9,300,000

which, being deducted from the total amount of expense, ordinary and extraordinary, leaves a balance of \$3,778,904, to be provided for by a loan.

Suppose we say four millions, sir; how inconsiderable is the expense compared with the object, and with the resources of this country? The object is to defend our rights, and our national honor, which is above price; to protect our flag, and secure the fruits of their industry and enterprise to our citizens, of all classes and descriptions. What, sir, are our resources? Let us look upon our revenue from imports and tonnage, which are bottomed on the consumption of the country, and must increase progressively with that consumption. The consumption of the country in its turn must increase with the increasing population and wealth of the country. The impost and tonnage duties, therefore, may be taken as a just criterion of the augmentation of our resources. In the year 1795, those duties produced \$5,500,000. In 1799, notwithstanding the immense losses which our commerce sustained from events growing out of the war, the same duties, with some small additions, by no means commensurate with the losses alluded to, produced \$6,400,000. In some of the intermediate years, the product was much higher. In 1797, it rose to \$7,500,000; and, as the causes which have produced a diminution since that year are of a temporary nature, it may be expected very soon to regain that height. But take the two extreme points of 1795 and 1799, and we find that in this short space, only five years inclusive, and five years of war, those duties have increased from \$5,500,000, to \$6,400,000, which is one fifth, or twenty per cent. on the whole amount. With a revenue increasing in this manner, and a population which, according to the best calculations, doubles itself in twenty-five years, are we, sir, to fear the incurring of a debt of a few millions for the defence of the country? When this increasing revenue, too, arises from taxes the lightest that are paid by any people on earth? Our revenue, including the direct tax, amounts to about nine and a half millions of dollars. Our population, most probably, amounts to six millions of souls, which is less than one dollar and two-thirds for each soul. The population of Great Britain may be about twelve millions of souls. Her permanent taxes, before the present tax of ten millions on income, amounted, as nearly as I can now recollect, to upwards of sixteen millions sterling; which is nearly, or quite six dollars for every soul. And yet these taxes England pays with ease, and her people are prosperous and happy. Their very ability to pay such immense taxes, with a late addition of ten millions sterling on income, and a permanent addition of two millions sterling in parish rates for the support of the poor, is an ample undeniable proof of their flourishing and happy condition. Such sums cannot be paid in a country where the people are miserable and oppressed. Despotism could not extort them, even if armed with all the apparatus of a French Revolutionary Government; for they can only be produced by a protected and prosperous industry. There are other proofs in abundance. They are to be found in the vast extent of agricul-

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tural improvement, in the increase of product from every great branch of national industry; in the immense sums expended annually on canals, and other public works of a beneficial nature.

And, with this example before us, sir, shall we say that we cannot afford money for our own defence? Sir, we never need be, and I am persuaded never shall be, taxed as the English are. A very great portion of their permanent burdens arises from the interest of a debt which the Government most unwisely suffered to accumulate almost a century, without one serious effort, or systematic plan, for its reduction. Her present Minister, at the commencement of his administration in 1783, established a permanent sinking fund, which now produces very great effects; he also introduced a maxim of infinite importance in finance, which he has steadily adhered to, that whenever a new loan is made, the means shall be provided, not only of paying the interest but of effecting a gradual extinguishment of the principal. Had these two ideas been adopted, and practised upon, at the beginning of the century which we have just seen close, England might have expended as much money as she has expended, and not owed, at this moment, a shilling of debt, except that contracted in the present war. These ideas, profiting by the example of England, we have adopted, and are now practising on. We have provided a fund, which is now in constant operation, for the extinguishment of our debt. This fund will extinguish the foreign debt in nine years from now, and the six per cent., a large part of our domestic debt, in eighteen years. I trust we shall adhere to this plan, and whenever we are compelled, by the exigency of our affairs, to make a loan, by providing also for its timely extinguishment, we may always avoid an inconvenient or burdensome accumulation of debt. We may gather all the roses of the funding system, without its thorns.

Let us suppose, sir, the worst that can happen. Let us suppose that we shall be compelled to continue our defensive preparations, and present warlike attitude, for four years longer, and to borrow in each of these years as much as we want for the present, that is four millions of dollars. This will be sixteen millions, and, added to the last year's loan, would produce a debt of twenty-one millions. Suppose, what I think hardly probable, that we should be forced to make all these loans at eight per cent. The whole amount of interest would be something less than seventeen hundred thousand dollars, and five hundred thousand dollars, as a sinking fund for the extinguishment of the debt, which that sum would effect in the course of sixteen or seventeen years; and it would produce an annual charge on the people of the United States, then increasing in population, wealth, and revenue, of two millions two hundred thousand dollars, for about sixteen years. And this would be the price at which they would buy the honor and safety of their country, the protection of their flag, and the security of their national rights! Would they grudge the price for such a purchase? Sir, I will not dishonor them by admitting the supposition.

I have gone thus far, Mr. Chairman, into the

consideration of the subject in a financial view, in order to take off the false and dangerous alarm, which general declamations about the augmentation of public debt, the increase and weight of taxes, and the expense of defensive establishments, are calculated to produce. I will now close this long and I fear tedious discussion, by repeating a maxim advanced under circumstances nearly similar, in another country, by one of the greatest statesmen that has ever adorned the world—a maxim which can never be too often repeated, or too deeply impressed on the minds of those who are called to the direction of public affairs: “A nation ‘which forbears to defend itself through fear of expense, bribes its neighbors, with its own money, to attack and destroy it.’” Under the impression of this wise maxim, I cannot but flatter myself that the Committee will vote on the resolution now on your table.

When Mr. HARPER had taken his seat,

Mr. GALLATIN rose.—He said that the gentleman from South Carolina had mistaken the opinion expressed by Mr. NICHOLAS and himself. It was not that the reduction of the army would be most desirable in a state of war, but only that, as it was already provided by law that the troops should be disbanded in case the negotiation with France should succeed, the resolution on the table was peculiarly applicable to the case of a failure of negotiation. And, therefore was it, that he had given his reasons at large why those troops would be useless even in that case. The principal of those reasons was that there was no rational apprehension of an invasion. Yet the gentleman from South Carolina, drawing his own deductions from a supposed opinion of his own creation, had gone so far as to suppose that we would also avow similar sentiments even in case of an actual invasion. The whole of the superstructure which he has erected on that false foundation must fall with the foundation itself.

The gentleman from South Carolina supposes that this motion will encourage the French to attempt an invasion; and, in order to support that opinion, he insisted much on the knowledge which France had acquired of our means and resources. She is said to have derived that knowledge from her experience during the last war, from the publicity of our financial and other statements, and from the correct observations made by her agents in this country, particularly by that one who till very lately was an influential member of her own Government, (Mr. Talleyrand.) Yet all the arguments and positions of the gentleman tend to show the extent of our resources. If those positions are true, and the information of France as correct as he supposes it to be, it is impossible to believe that that nation should draw an inference from the disbanding of this army, that we are unable to support it. They will, if, as the gentleman supposes, their information is perfectly correct, view this measure, as we consider it ourselves, as a question of internal policy and economy. They will conclude that we reduce the establishment because we do not fear an invasion, and wish not to be at an useless expense.

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But it is said that France will ascribe the motion to motives different from those we avow, different from those which actuate us; that it will evince the existence of a party that wishes to trammel and debilitate our own Government; that it will actually weaken the means of our Government to obtain honorable terms of accommodation, and compel the Administration to submit to any conditions France may please to impose.

Are we then to take for our guide, on subjects of legislation, the opinion which foreign nations may form of our motives, instead of being governed by the intrinsic merits of the question itself on which we are called to decide? But this motion is calculated neither to debilitate our own Government, nor to impress on France an opinion of imbecility in our councils or of internal weakness.

Different opinions are entertained as to the motives which have induced France to show a disposition to treat with us on equal terms. That disposition has by some gentlemen been ascribed solely to the spirit of resistance evinced by America, and to the state of hostility adopted by the last Congress. Was I to hazard an opinion on that subject, I would say, that the refusal of our Envoys to accede to the terms first proposed by France, a public loan and a private bribe, and the subsequent determination not to treat through the medium of a Minister selected out of the three by the Government of that country, a determination adopted by that Minister himself, contributed to produce a change on their part. I would even add, that, from Mr. Gerry's correspondence, it appears probable to me that that refusal and that determination alone would have been sufficient to produce the present negotiation. But I consider that discussion as unconnected with the motion now under consideration; and I am willing to grant at present, for the sake of argument, that the present state of things has been solely produced by the system of resistance and hostility adopted by America. And on that ground I say that the reduction of the Military Establishment can neither change the amicable disposition of France, nor deprive our Government of the means of obtaining equally advantageous and honorable terms.

The present negotiation originated in the indirect communications that took place in August, 1798, between the French Government and our Minister in Holland, and in the consequent nomination of that gentleman in February last, to treat with that Government. This additional army was voted in July, 1798. That vote could not be known in France in August, when the communications of that country, which are the acknowledged basis of the negotiation, were made. That vote, therefore, did not influence the change of disposition in France, whatever effect might have been produced by our other acts; and the repeal of that law cannot alter that disposition to treat which was not produced by the law.

As it regards our own Government, when they agreed to open a negotiation by the nomination of a Minister in February last, the army, voted six months before, existed that moment only on paper: it had, in fact, no existence. The disbanding of

that army tends not, therefore, to debilitate our Government, by depriving them of any means to render a negotiation successful, which they did actually possess when they consented to open that negotiation.

There is, on the contrary, but one circumstance that can produce abroad an unfavorable impression of our situation; it is the state of our finances; it is the knowledge that our revenue does not exceed nine millions of dollars, and our expenditure amounts to fourteen. Men and free men we have, and we never, therefore, can want soldiers to repel an invading foe. But our moneyed resources are limited, and the only source of danger to us is our consuming those resources for useless objects and exhausting ourselves for the fear of imaginary dangers. And I would ask, added Mr. G., which situation is best calculated to impress foreign nations with an idea of our strength and wisdom—an annual expenditure reduced to the level of our revenue, without this army, or a deficiency of five millions, and this army, without any means of paying it but ruinous loans?

That trite topic of the necessity of certain measures, because they are called measures of defence; that cry of alarm that we are, or will be considered as a divided people; these charges of party spirit, disorganization, and jacobinism, have, for a long time, been uniformly repeated on this floor upon almost every subject of any importance. They have not been confined to debates upon taxes, navies, or armies. The sedition and alien laws were also proposed and have since been supported as an indispensable measure of defence; those who opposed them were branded with the appellation of enemies of their Government, and the fate of the conquered countries in Europe held up to our view as a warning of the approaching danger. It is true that the burden of the song is now somewhat altered. Formerly it was Venice that was the constant subject of the lamentations of some gentlemen. With the fate of Venice we were perpetually threatened. At present Venice seems to have altogether escaped the recollection of those gentlemen. We hear not a single voice raised to remind us of the fate of Venice. Indeed, sir, I hear no more of Venice in Europe than on this floor. We are yet to learn, that since the whole of the possessions of that Republic have been wrested from the rapacious hands of the Emperor of Germany, he has restored to her her ancient independence. Is it then because the conqueror is not the same, and because the charge of ambition and rapacity is transferred from one Power to another, that gentlemen have become silent on that subject? For myself, I sincerely believe that all the great Powers of Europe, France as well as Austria, Prussia, England, or Russia, and these as well as France, are actuated by similar motives, and have similar objects in view. I can see no sensible difference between the overthrow of Tip-poo Saib, the division of Poland, or the annexation of Venice, and the conquest of Holland, Egypt, or Switzerland. Inordinate ambition and insatiable avarice equally govern them all, and they seem equally to disregard the dictates of justice and in-

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tegrity. These are the exclusive attributes of the weaker European nations, and seem to have no better foundation than their weakness.

We were, however, very seriously admonished, on this occasion, with the destiny of Holland. As the opposition to the motion is, in a great degree, grounded on the supposed inefficacy of a militia and the necessity of a standing army in case of invasion, the instance of Holland, who had no militia, and who was conquered notwithstanding her standing army, is not certainly very judiciously selected by the opponents of the motion. Their object, however, is to insinuate that our political divisions may prove as fatal as those of Holland. Yet no evidence has ever been adduced to convince us that the patriots of that country assisted the French in their invasion. It appears that the mass of the people there, whatever might have been their former sentiments, have, during this war, been the passive prey of their successive defenders or conquerors. But there does not exist the least similarity between the parties of this country and those of Holland. Here men, perfectly equal in their rights and expectations, differ about the propriety of measures adopted or rejected by a majority, and that majority fluctuates with the opinions of the people expressed in their elections. Here men differ on the measures and not on the form of the Government. Here we have no influential family, possessed of an immense hereditary power, supported by one half and detested by the other half of the nation. In Holland, civil dissensions and wars on the subject of the Orange family, have been almost coeval with the existence of the Republic. The Stadtholdership has been abolished and reinstated six times before the present war. The present Prince of Orange was, some time before the French Revolution, expelled by a majority of the people of Holland, unaided by foreign aid; and he was within a short time reinstated, against their will, by the armies of the King of Prussia. Doubtless a people governed by a sovereign who had, but a few years before, been imposed upon them by a foreign Power, could not be supposed to exert much energy in his defence. But, if for that reason they afford inducements of invasion to France, can any inference be drawn applicable to America? Unless the gentlemen suppose that our Government was imposed on the people of America, against the will of a majority and by force, or unless they suppose the existence in this country of a party who wish to subvert our Government and to establish here an hereditary Stadtholder, they must acknowledge the fallacy of these inferences.

Any comparison between Egypt and the United States would be so evidently absurd that it would be wasting the time of the Committee to dwell on the subject. But Switzerland has been mentioned. An appeal to the opinion of a member of this House, personally acquainted with that country, has been made by the gentleman from South Carolina. I believe, said Mr. G., that I am the only member who may be supposed to possess some personal knowledge of Switzerland; I have indeed, principally on account of that appeal, been

induced to reply to the gentleman; and although I do believe that it is not altogether fair to draw any arguments from opinions of a member of this body, which have never certainly been declared on this floor, and which must therefore have been expressed in a loose manner and in private conversation, I will beg the indulgence of the Committee whilst I state the facts alluded to, so far as I am acquainted with them.

The population of Switzerland is estimated at less than two millions of souls, and the Canton of Bern includes about one third of the whole. Less than 400,000 souls form the population of that part of the Canton called the "German country." Between two and three hundred thousand inhabit that part called "Pays de Vaud," which was conquered by Bern from the house of Savoy. The Government of that Canton was monstrous in theory, but gentle and it may be good in its administration. Out of two hundred families, and to the exclusion of all the other citizens, a council of two hundred and fifty was selected for life, filling their own vacancies out of those families only, and uniting the supreme legislative, executive, and even judiciary powers. It was a complete hereditary aristocracy. Yet the people were protected in their property, justice was administered with tolerable impartiality, individual acts of oppression were rare, taxes were light; the administration on the whole might perhaps deserve the appellation of paternal: even the conquered inhabitants of Pays de Vaud, although subjects in the true meaning of the word, could boast that they lived under the most gentle servitude. The people of the whole canton enjoyed a greater share of physical happiness than those of any other European nation; and the only rational cause of discontent was the hereditary, insuperable exclusion from any share in the government of that nominal republic of which they were nominal citizens. The causes of so much real happiness, under a form of government so little calculated to bestow it, are worthy of attention, and not altogether inapplicable to the present question.

In the first place, that canton, together with the other parts of Switzerland, had enjoyed two centuries of peace. Firmly attached to a system of neutrality, and having neither armies nor other expensive establishments, light taxes and a frugal economy enabled them to support the necessary expenses of Government, and even to enrich the individual members of that Government, and to accumulate a public treasure, without having recourse to any extended system of taxation, much less to a system of accumulating funded debt. This was the first cause of the happiness of the body of the people. Their Government kept clear of foreign wars, supported no army, and was not under the necessity of wresting the fruits of the labor of the governed, in order to support the expense and parade of a military, unproductive establishment. But, as they had no military standing force, the defence of the country rested with the people themselves. Hence, every man was armed and trained to arms. The people were the best, indeed the only militia of Europe. And this

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was their best security against oppression. The existence of an arbitrary Government, destitute of military standing force, depended on the will of its armed subjects; and this accounts for the great moderation and gentle administration of that Government.

Of the other parts of Switzerland, it will be sufficient to say that they consisted of a number of small independent republics, feebly united by any general government, some of them governed by aristocracies as vicious in practice as in theory, and others enjoying perfectly free governments.

I would not have presumed, said Mr. G., to state so much at large mere historical facts, as well known to almost every member of this Committee as to myself, had I not been drawn into that digression by the historical details given to us by the gentleman from South Carolina, and I must once more apologise for having consumed in that manner so much of their time. But what deductions can be drawn from those facts connected with the event of the invasion and conquest of that country? When that invasion took place, the subjects of most of those aristocracies, except that of Bern and a considerable part of the inhabitants of the Pays de Vaud, either joined or did not resist the French. The citizens of the free cantons, and even those of the Canton of Bern, made every resistance in their power, and were subdued merely by a superior force. No inference can thence be drawn except that the subjects of a Government, bad in practice and theory, may wish for a revolution or for a change of masters; and that the citizens of a free country, and even the subjects of a Government bad in theory, but gentle in its administration, may safely be trusted with the defence of their country against an invading foe. Want of success was not owing to the want of exertions, but to immense inferiority of power. As to the divisions of the councils of Bern so much insisted on by the gentleman from South Carolina, they had not the least effect on the event. When those divisions he alluded to took place, the event was decided; the enemy was at the gates. The smallness of the population has been mentioned. No hope of success remained, and the only division at that time was on the question whether it was proper to sacrifice or preserve the lives of a handful of enthusiastic and devoted people. Unfortunately, indeed, divisions had previously existed in those councils. In 1792, when the Duke of Brunswick invaded France, and perhaps at other subsequent times, when the alarm was proclaimed that the French Revolution endangered every Government, a party in the Council of Bern favored the views of the coalition, and although they could not obtain a majority in favor of war, a departure from the ancient strict rules of neutrality occasionally took place, which afforded afterwards, when the favorable moment of a suspension of war with Germany took place, a pretence to the unjustifiable invasion of France.

France, it is true, has been enabled to conquer, by superior numbers, a small country lying at her doors, and whose immense importance to her as a military position, in her approaching contest with

the Continental Powers, has been evinced by the state of this campaign. It would be ridiculous to dwell on the immense difference resulting in favor of America, from her distance, extent of territory, population, union, and Government.

Before he would take leave of these extraneous historical digressions, Mr. G. said, that he could not help noticing one of the observations of the gentleman from South Carolina. That gentleman had remarked, that the French conscripts, carried as he said by force and chained to the army, fought with uncommon bravery against a foreign enemy. Thus it appeared that Frenchmen living under the worst tyranny, even that of Robespierre, and at a time when their country was torn by the most inveterate and bloody internal factions, did not hesitate, although dragged in chains to a camp, to fight, and had succeeded in repelling an invading foe and even in prosecuting war in foreign countries. Why did not the gentleman apply that instance also, and draw its proper deduction as applied to America? If the French people in that situation, and amidst those divisions, had been found equal to the task of combatting foreign nations, could it be supposed that the free citizens of America would, on account of some divisions merely of opinion, be less willing and less capable to defend themselves and their independence at the time of real danger against a foreign invader?

The arguments given in support of the possibility of an invasion were not certainly susceptible of being absolutely disproved by reasoning. They were grounded not on probabilities, but on possible events. And there was perhaps nothing which could be proved to be altogether impossible. But that kind of argument did not apply, particularly to the present motion or to the present time. For there could be no possible time, nor any possible situation of Europe, which would not justify some hypothetic statement as plausible as that given by the gentleman from South Carolina. At any time, and under any circumstances whatever, that gentleman, or any other, might assert that it was not altogether impossible for some European nation to attempt an invasion of this country, and, on as solid ground, justify a permanent military establishment of considerable magnitude. The suppositions of that gentleman, if they would prove anything, would only prove that it was necessary for America, at all times, and as a measure of caution, to keep on foot a large standing army. They only would prove that this army ought not to be disbanded even if the negotiation with France should succeed.

Amongst other inducements which we offered to invasion, that gentleman had, however, mentioned one of an extraordinary nature. In his enumeration of the objects of plunder, which might attract French rapacity, he counted our funded capital. As our funded capital is the same thing with our funded debt, I must confess for my share, said Mr. G., that I have no objection to give it to the French or to any other nation that will take it. It would be the most negative gift ever bestowed by one Government on another.

The gentleman from South Carolina had in-

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dulged himself in a number of observations on a supposed party, whose views he had represented at one time to be to carry elections by means of insurrections, at another to estrange the people from their Government. He seemed indeed to have altogether confounded evidences of dissatisfaction at certain measures of Administration with a decided hatred against a Government of their own choice. But he had concluded his observation by an unexpected conclusion. For, after having stated the strength of that party as extremely formidable—since he had drawn proof of its existence from the legislative proceedings of some large and respectable State, from the declarations of the Governor of another powerful State, and even from the supposed opinions of the second official character of the Union—after having represented their views as extremely dangerous, not less indeed than to persuade the militia, the people of this country, that they should consider French invaders as their deliverers—he told us that they were too weak in numbers, and too contemptible to be considered as in any degree dangerous. Did I believe the reality of all the positions of that gentleman, relative to party, I must confess that I would not consider that party as too contemptible to create any danger. And if he did believe they were so harmless, to what purpose did he expatiate so much at large on their existence and designs? But the gentleman from Delaware views this subject in a different light. His conclusion was, that, knowing the existence of such a party, it was necessary to have an army, in order to defend this country against an invasion, inasmuch as a considerable part of the militia could not be trusted with its defence.

If a party does exist so inimical to our Government as to join an invading enemy, in order to subvert it, they must be supposed to subvert it without an invasion. It is impossible to mistake the meaning of the gentlemen. When they ground the necessity of an army on the supposed existence of a party, let them express themselves as they please, either they mean nothing, or they mean that an army is necessary not only against an enemy, but against a party of the people. Let the gentlemen be silent about party, or let them candidly acknowledge that this army is intended to suppress party.

Mr. G. then proceeded to make some observations on the financial statements of the gentleman from South Carolina. He said he had avoided making any detailed statement of that kind, because he knew that the official documents, necessary to form a correct estimate, were not yet before the House. And he had stated, in the gross, that our revenue was about nine millions, our expenditure about fourteen, and the deficiency therefore about five. The result of the gentleman from South Carolina was to show a deficiency of only four millions. It was immaterial to the present question whether that deficiency was four or five millions. But the details on which the gentleman from South Carolina had grounded his result were in some degree incorrect. He had estimated the nett proceeds of the land tax at two millions

of dollars. But he had forgotten to deduct from that sum the expenses of collection, which, being $5\frac{1}{2}$ per cent., would amount to \$115,000. He had stated, what was true, that the whole of the nett proceeds of that tax could not be received in the Treasury during the present year. Yet he insisted that the whole amount should be considered as part of those receipts, because an anticipation for the deficiency might be obtained by way of loan, from the Bank. That anticipation certainly could not be considered as part of the receipts arising from revenue. Instead of being credited to the account of revenue, it ought to be charged as part of the debt that would be contracted during the present year. An anticipation was as much a debt as any other loan. The amount of that anticipation would fill a part of the deficiency and should be added to the amount of five millions, stated as deficiencies by the gentleman. He had also neglected to insert several items in his estimate of expenditures; the most important omission was the necessary disbursements for the building of the seventy-fours, which, by the Secretary of the Treasury, were estimated at \$1,300,000.

The deficiency is, however, acknowledged to be at least four millions; making only these few corrections to the statement of the gentleman from South Carolina, it appears to be five millions. Our revenue is stated by all of us to be only nine millions; and under those circumstances, Mr. G. said, he would ask, whether a saving of two millions and a half, which would result from the adoption of the motion, would be called contemptible? But we are flattered by expectations of an increasing revenue, even without additional taxes. The very reverse, a diminution, instead of an increase, appears probable. The gentleman from South Carolina has compared the proceeds of the impost of 1795 with those of 1799, in order to prove an increase. But he forgot to state how much was due to a real increase of importation, and how much to an increase of taxation. The fact was, that the rate of duty on many articles had been considerably increased in 1796 and 1797, and that an additional duty on salt had been laid in 1798, all of which were blended together in his statements. But the right way of computation would have been to compare the proceeds of the impost for 1799 with those of 1798 and 1797; and that comparison would show a defalcation in 1799 of near eight hundred thousand dollars from the average proceeds of 1797 and 1798; for those two years had given \$14,400,000 for the impost and tonnage, equal to an average of \$7,200,000, and the year 1799 had given less than \$6,500,000. Was there any probability, from the importations of last Fall as compared with those of the preceding years, that the amount of impost for 1800 would exceed the amount of 1799? We import in proportion to our consumption, which must be limited by our means of payment. Those means of payment are always in proportion to our exports, and an examination of these will show that the quantities of articles of our own produce have not increased, but, on the whole, have rather suffered a decrease within these past few years. It is solely to the

increase of the price in most of the articles, that we are indebted for any increase in the value of that of our exports, which consist of articles of our own produce. The prodigious fall of seven dollars at least per hundred, in the price of tobacco, will make a difference of several millions of dollars in the value of our exports, will so far diminish our means of payment for articles imported, and will so far tend to diminish our importations and affect our revenue.

We are, however, told that any increase of debt that may be created in consequence of our present situation is trifling in itself, and holds no proportion to the supposed increase of resources resulting from our growing population. But the gentlemen from Massachusetts (Mr. OTIS) and from South Carolina (Mr. HARPER) estimate that possible increase at something more than twenty millions of dollars, which would require, according to the calculation of one of those gentlemen, additional taxes to the amount of two millions, in order to pay the interest on and redeem the principal itself in twenty years. Whether to add twenty five per cent. to our debt and taxes can be considered as trifling, Mr. G. said, he would leave the Committee to judge? But was it not a most extraordinary and novel mode of calculating, not on the present resources of the country, but on those which posterity might have? Are we then so sure that our posterity will have no dangers of their own to encounter, and no additional expenditures which will require every additional resource they may possess? Let us provide, out of our own resources, for our own wants, instead of mortgaging not only our actual revenue, but even that which may hereafter be raised by posterity.

Much has been said by the gentleman from South Carolina of certain new financial discoveries, relative to the application of a sinking fund, which had they been known to British Ministers fifty or one hundred years ago, as well as they were to the present Administration of that country, would have discharged, by this time, the whole debt of Great Britain. Were we to judge of the merit of that pretended new application of a sinking fund by its effects, we would not be disposed to admire it as much as the gentleman. Seventeen years ago, the debt of Great Britain did not exceed two hundred and forty millions sterling. During that period, that country had enjoyed ten years of peace, and had seven years of war; during that period, the years of war did not exceed the average proportion of time for which England had been involved in war for the last fifty years. At present her debt was almost five hundred millions sterling. The present Administration of Great Britain, notwithstanding all the boasted merit of certain modifications of the sinking fund, had more than doubled the public debt during that period.

I know, said Mr. G., but one way that a nation has of paying her debts; and that is precisely the same which individuals practise. "Spend *less* than you receive;" and you may then apply the surplus of your receipts to the discharge of your debts. But if you spend *more* than you receive, you may have recourse to sinking funds, you may

modify them as you please, you may render your accounts extremely complex, you may give a scientific appearance to additions and subtractions; you must still necessarily increase your debt. If you spend more than you receive, the difference must be supplied by loans; and if out of these receipts you have set a sum apart to pay your debts—if you have so mortgaged or disposed of that sum that you cannot apply it to your useful expenditure, you must borrow so much more in order to meet your expenditure. If your revenue is nine millions of dollars, and your expenditure fourteen, you must borrow, you must create a new debt of five millions. But if two millions of that revenue are, under the name of sinking fund, applicable to the payment of the principal of an old debt, and pledged for it, then the portion of your revenue applicable to discharging your current expenditures of fourteen millions is reduced to seven millions; and instead of borrowing five millions, you must borrow seven: you create a new debt of seven millions, and you pay an old one of two. It is still the same increase of five millions of debt. The only difference that is produced arises from the relative price you give for the old debt and rate of interest you pay for the new. At present we pay yearly, a part of a domestic debt, bearing six per cent. interest, and of a foreign debt bearing four or five per cent. interest; and we may pay both of them at par. At the same time we are obliged to borrow at the rate of eight per cent. At present, therefore, that nominal sinking fund increases our debt, or at least the annual interest payable on our debt.

Mr. G. said, he would now conclude the desultory observations into which he had been drawn, from a wish to reply to some parts of the speech of the gentleman from South Carolina. It was true, indeed, those observations could have no weight with gentlemen who supposed the liberty and independence of the country concerned in the reduction of the Military Establishment. To him it was only a question of economy, which could have no possible effect on the external relations of America, which had no importance except as a question of economy. But, as such, he considered it as highly important, and hoped it might be viewed in the same light by the Committee.

Mr. H. LEE.—If, Mr. Speaker, search after truth was sincerely pursued in debate, we should be relieved from much useless discussion, much unnecessary consumption of our time, and the common good would be more thoroughly promoted. But it seems as if long habit in public speaking produced a desire rather to give some colorable pretexts for favorite opinions, however erroneous, than by open and manly arguments to enlighten and convince. Much as we have cause to lament the prevalence of this habit, it must be endured, and can be corrected only by sound decisions in those whose province it is to decide.

The gentleman last up (Mr. GALLATIN) has started with a fundamental error, which has diffused its influence through his whole argument. To have regarded the turn of his discourse you would suppose that the question before us was the creation of a permanent military force, when in

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truth it is whether we shall disband a part of a force already created, or, in other words, whether we shall disband a considerable portion of the army raised for the express purpose of defending the United States from an unprovoked existing war waged against us by France, before we know what may be the termination of our third attempt to secure to us a solid peace. We contend that prudence, dignity, and economy, alike command us to make no diminution in our actual force, till the result of the existing negotiation is ascertained. I put it to the candor of the honorable gentleman last up, whether this is not the real question. But the course of debate has obscured if not changed the point in dispute, and the attention of the Committee has been drawn to objects opposite or irrelevant.

If the real question be that now stated, I ask on what ground can gentlemen hesitate in their decision? In three months we shall know whether the enemy conclude a peace, or continue war. In the first event the army falls of course, in the last event their services may be wanting. The intermediate expense will not be more than \$130,000, and shall we, to avoid this small expense, properly styled "contemptible" by the gentleman himself, deprive our country of the means of self-defence acquired by a large expenditure of our money?

On the score of economy only, I repeat my assertion, the measure ought to be rejected. But says the honorable gentleman, we believe the negotiation for peace will fail and then we have no doubt the army will be held in service, and a useless expense of two millions and a half of dollars thus incurred. To prevent this, we now urge its reduction.

It is not possible to declare the situation of things should the negotiation fail—therefore it is not possible to say now what it may be proper to do in case of such failure—the conduct to be observed must be decided by the existing circumstances of the period. But I hesitate not in pronouncing it as my opinion, that if the public interest shall require a reduction, or even a disbandment of the army, negotiation failing, such reduction or disbandment will be made; the happiness of the people would command the measure, and their happiness is the sole object of the exertions of those gentlemen with whom he had the pleasure of acting on this floor, as well as of every other department of Government, so far as it was in his power to distinguish their views. Was it reduced to a certainty that the pending negotiation would terminate in a solid peace, I should with alacrity support the motion on the table, for upon all occasions it is our duty to save the public money, unless by such saving we sacrifice more important interests. But the event of the negotiation is unknown; I must, therefore, continue to resist every measure which in this state of incertitude tends to decrease our actual force, or to brand with the stamp of caprice our public councils. I persuade myself, that some days ago, it was clearly shown that the army to which the motion applies was part of the general system of defence adopted

on the part of the United States, in consequence of French aggression, and indeed that this fact was established from evidence exhibited by the gentleman last up. To make any change in that system at this time I persist in believing not only unwarranted by sound policy, but as begetting impressions unfavorable to our national character, and tending to disappoint our hopes of peace.

The gentleman thought it extremely improper in our deliberations to respect at all the influence which our conduct might have on the councils and conduct of any other nation, but contended that every measure ought to be tried by its own intrinsic merit. I differ entirely in opinion from the honorable member. In my judgment, no consideration is more proper than the effect of our measures on the conduct of the nation to whom such measures apply. I know no other test by which the merit or demerit of our deliberations can be so fairly ascertained; thus we act in private life, and thus do and must all nations act. By what other light ought we, or can we direct our steps? But it seems, we not only ought to disregard the influence of our measures on our present foe, but must shut out, too, from our deliberations, all the instruction which history affords.

The learned and relevant researches which the honorable member from South Carolina edified us with, have drawn upon him, from the gentleman last up, unmerited asperity. Very differently indeed, sir, did my mind feel under the instructive illustration. I feel the propriety of holding up to the view of America, the fall of Venice, of Holland, of humble, but once happy Switzerland. The example of other nations ought, and I hope will teach us to avoid similar destruction, by adopting in time different conduct. In what manner can you so strongly appeal to the good sense of your own countrymen, as by showing to them from the faithful page of history how to avoid national disasters?

If, Mr. Chairman, we are neither to regard the effect of our measures on those on whom they are intended to operate, nor to look into history for light to guide our deliberations, we act the part of mere puppets, spending to no possible good purpose the people's money, and exhibiting to the world a splendid instance of human insignificance. Fortunately for the American nation and for the human race, such barbarous doctrines cannot be admitted. History will be referred to by those who direct public councils, and time, in its guidance, will uphold human happiness, by enlightening human councils. I thank the member from South Carolina, for his applicable and illustrating information, confirmed not only in the instance he has quoted, but by all ancient history, and especially in the conquest of Greece, by Philip of Macedon.

How then results this historical inquiry? Certainly, that the United States, warned by the fall of other nations, ought to hold fast all her acquired means of defence, till the establishment of a solid peace shall authorize her with safety to save her money by reducing her expenses.

But the same member has been pleased to ac-

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knowledge that the system of defence had produced a change of conduct on the part of France, but attributes this change to our diplomatic efforts and naval exertions. I agree with him in part; the ability displayed by our late Envoys, and the vigilance of our infant navy, no doubt contributed to produce the change alluded to, so did also the raising of an additional military force, and the other defensive measures adopted by Congress.

It has again and again been represented that we place our whole confidence for the defence of our country, in case of invasion, in these ten or twelve thousand men, although we have often denied it. We have again and again declared that we consider a well disciplined militia to be the chief bulwark of our nation, but have insisted on the impropriety of trusting to militia only in actual war. A regular army, adequate to the object of co-operating with the militia, we prefer as the safest and cheapest defence. Let us then be quoted fairly, let the truth only be disseminated, and I cheerfully will meet all the consequences of the opinion given.

The honorable gentleman has attempted to do away all the operation of the illustration which fell from the gentleman from South Carolina, so far as it grew out of difference of opinion existing in this country, by asserting that although the Hollanders did experience much evil from their internal discord, yet the same evils were not to be apprehended from our differences of opinion. We had no Stadtholder, nor did we assimilate in any respect the condition of the people of Holland. It is true we have no Stadtholder, nor is our situation as a people much like that of Holland, but we are men, we are governed by the appetites and passions common to men, and we must expect the same effect from the same causes; unless, as was correctly expressed by an ingenious young member the other day, (Mr. RANDOLPH,) the operation of physical and moral causes and effects was suspended in America. The truth is, Mr. Chairman, and I acknowledge it with much pain, that our differences in America are the same as to principle and operation as are the differences referred to, and the extent of the effect will depend on the good sense of the people. For my own part I sincerely wish they would rid the public councils of all factious men. Thus and thus only can the evil be arrested.

Difference of opinion, sir, backed by possession of power, no matter how named or how dressed, will lead always to disastrous consequences, if successfully fostered by an erring people or by the intrigues of a foreign nation. This truth the honorable member would find fully exhibited in that invaluable book written by the illustrious personage at the head of our Government, and which work in my humble opinion stands first in all the efforts of science to secure and perpetuate the blessings of liberty to man, notwithstanding the misconceived and unmerited censure which now surrounds it.

It is in vain for gentlemen to treat so indifferently the existing difference of opinion among us, their own experience meets them full in the face.

When that great and good man whose picture hangs before us, conducted the Government, what was the trial to which he was subjected with a foreign agent! How difficult did he find it, with all the greatness of his character, to repress the intrigues of that foreign agent! Did not a difference of opinion, ranged in conformity with existing differences of opinion, pervade the continent? Were there not found many citizens who openly maintained the proceedings of the foreign Minister in opposition to their own Chief Magistrate? How then can gentlemen affect to disbelieve that the people of America are liable, like other nations, to all the disasters which spring from factions and factious men?

The gentleman is certainly correct when he says that powerful nations consult too often their own will and not the rules of right, nor can the truth of the position be more precisely maintained than by the example of that very nation now at war with us. Austria and Great Britain, powerful nations, I dare say have also often proved the correctness of the gentleman's opinion; but it does not follow that because these two nations do wrong, that therefore we ought to submit to injuries received from France. My own opinion is that America ought to guard herself against injury from all nations, disregarding their name or situation. I wish, said Mr. L., we could conduct our affairs without having anything to do with the Ministers of foreign nations, we should then be exempt from the influence of their intrigues; but this is impossible, and of course, the only course to be pursued is to counteract their operation as much as possible, by guarding against the effect. But it is not the way to guard ourselves by declaring, with the same gentleman, that they can do us no injury. I lament very much that the debate has taken this turn, but it was not possible to avoid it, without shrinking from that full inquiry demanded by the occasion.

It has been more than once insinuated that the army is preserved with a view to turn their arms on a part of the people who differ in sentiment from Administration. Is it possible that such an opinion can be entertained? What evidence can be resorted to in justification of such a sentiment? Ought it to have been ventured without full proof to support it? Can any insinuation be more cruel or absurd? An Administration uniformly distinguished by love of country, by zeal for the common happiness, by vigilance and wisdom in the execution of its duty, and by an enlarged and correct arrangement of all the affairs of the nation, surely deserves very different treatment. I must therefore say, what I utter with reluctance, that these derogating suspicions must have been experienced in the breast of the member who announced them.

Much has been said on the subject of money and the saving of money. But it has not been proved on the present occasion that the small retrenchment contended for would ultimately turn out a saving of money—the reverse was most probable. It was the duty of every man in that House to be careful of the public money, and, as far as his small experience justified any opinion, no Legislature

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could be more attentive to this subject than the House of Representatives. Let us proceed in the same praiseworthy manner, but let us not prefer saving the people's money to securing their liberty and their lives. For my own part, I never considered the present subject as involving much pecuniary consequence, and therefore have been surprised to find gentlemen in opposition always recurring to this ground.

Another topic sensible in its effect on the eloquence of the friends to the motion, and a never failing topic, is the militia; and, to show their entire capacity to defend the country, various instances have been cited of their valor in the American revolutionary war. It is certainly grateful to the American ear to hear eulogiums pronounced on our countrymen, and no heart rejoices more than does mine in recollecting the gallantry of our militia. The two examples quoted, Bunker's Hill and King's Mountain, are illustrious proofs of American valor, and grateful America has always manifested her deep regard of those highly honored defenders of their country. Was it necessary, we could add many other memorable testimonies of the occasional and gallant services of our militia during the late war, but it is unnecessary and will be avoided. For, although true, it does not change the position we contend for. The mere act of fighting is not the whole of soldiership. The militia equal any troops in personal courage and exceed all in fidelity. They want method, patience, obedience, and combination, without all which attributes, no man can be a good soldier. Sir, without these qualifications, essential to war, never expect a long course of success. The trained man does possess them, and therefore will forever be superior to the untrained man. You must, therefore, when you prepare for war, create a trained army. We want no mercenary nor foreign army—we want our own brothers, our own sons, taught to be patient, to obey, to retreat, to act in concert, and thus in the hour of battle to be equal to their enemy, however skilful. Show me, in any country, where militia have so done, until beaten into it by long and constant course of service. It cannot be done.

He was sorry his honorable colleague had used the word mercenary; it certainly was not justly applied to our army—an army of foreigners fighting for her only was so designated with propriety. But really he could never admit the justice of the appellation when applied to an army of natives, interested in common with us all as to country and objects, and distinguished from us only by the receipt of pay. If this last distinction authorized the expression, it might be applied to our militia; they receive pay when in service. The King's Mountain action is no proof of the counter opinion. An imprudent though gallant officer had placed himself far from all possible support and in the neighborhood of a country entirely inimical. He was caught on the top of a mountain, hid as it were like a squirrel. Surrounded by brave militia, expert in the use of rifles, his fate was inevitable. But suppose he could have entrenched himself and had been in possession of a fortnight's

supply of provisions; do you believe he would have been taken? No, the event would not have happened; brave as were the assailants they were militia, they would have been found destitute of patience, and thus the enemy would have escaped. I say not this to subtract from the credit due to these gallant and patriotic citizens. No man more reveres their heroism, but I make the explanation that my country, knowing the truth, may repel the introduction of error.

But it seems we are to have militia like the conscripts of France. If you effect this, your militia will be regulars—for the name *conscript* and the name *regular* means one and the same thing. The mildness of our Government forbids the possibility of such a change. It can never be effected but under the misrule of despotism, and God forbid we should ever imitate France, either in Government or in the management of our citizens!

In every view then, Mr. Chairman, of the subject before us, pressed as has been the motion by its friends, I must give it my decided negative, convinced that in so doing I truly promote the public good.

Mr. HUGER said he rose to express his desire, that the Committee would take the question. He confessed he had made up his mind; indeed, after the talents and abilities displayed on the present question, he should suppose every member had received all the information possible on the subject, and he could not be wrong in thinking every gentleman had formed his opinion. Having been detained from the city much longer than he wished, he had voted, on a former occasion, that the subject should undergo such a discussion as to enable him to give a vote on the question; that had been allowed, and a mature discussion taken place.

In his opinion, Mr. H. said, the motion was at least premature—this was his opinion at first, but he wished to hear reasons against it, if any could be adduced. Supposing no new impressions could be made, why should the debate be prolonged? Some gentlemen might perhaps wish to give a reason for their vote; he wished such might be patiently heard.

If gentlemen wish to go farther, and extend their observations in the way the subject had been treated, they ought to publish in the newspapers what would have been their speeches on this occasion. This was not unfrequently done, and would much save the time of the House. Much had been said about our finances. Mr. H. conceived a trifling expense, such as this had been represented, was not worthy notice, especially as considerable advantages might be derived. When an expense was superfluous, it ought to be prevented; then it might be necessary to mention the financial state of the nation; but no such thing was now pretended. On the whole, he considered the present state of things called upon him to vote in the negative.

The question was called for, from different parts of the House, when

Mr. RANDOLPH rose, and begged the attention of the Committee to a few observations, which if not granted as indulgence he should be obliged to

demand as a right. He denied having asserted that our finances were in a situation which would not permit the raising of more money, however urgent the necessity. But he persisted in declaring that their condition was alarming, and that gentlemen had, instead of offering proof to support their opposition to the resolution, perpetually eluded the question—which was, whether there was danger, in the first place; and whether, in the second, these troops were competent to repel it. Gentlemen could not even agree in the use to which these troops were to be applied. Some asserted that they were to act in the first instance; the militia not being in a state of preparation. Others, sensible that they could not annihilate space and be present everywhere, said that the militia could oppose the foe until these troops could march to their relief. If gentlemen were persuaded of the danger of invasion there was no mode to convince them of their mistake. Mere impression could not be effaced by argument. But was it true policy to expend the “sinews of war” upon the chance of bringing these men into action? Mr. R. insisted that his use of the term mercenary, as applied to the Army of the United States, was warranted. He denied Mr. LEE’s interpretation of the word, which he had declared applicable only to foreign troops subsidized by another State. Mr. R. stated that the original word signified wages, and had no relation to foreign or domestic affairs. That a mercenary army was one in which the military art was carried on as a profession, in contradistinction from a militia or patriotic army, composed of citizens, without respect to station or fortune, indiscriminately bound to defend their country. He declared that he had no intention of receding from any opinions which he had expressed, but there was a term which he had used yesterday, and which (as no notice had been taken of it) he would exchange—it was *ragamuffin*. It had been extorted from him by the character and appearance of the recruits in his country; men the most abject and worthless of the community; and to their protection, said he, we are told to confide our liberties and independence. Sir, we revolt from the idea. We hold those blessings in contempt of their protection. We hold them in defiance of all force, foreign or domestic; we hold them, sir, by the tenure of that valor which obtained them.

Mr. R. denied that this tax would fall lightly upon the community. In the tobacco country it would be severely felt. The depreciation of that important article would alone cause great distress. If to this effect gentlemen were insensible, it would speak to them in a language which they would be obliged to hear, in the diminished amount of the revenue drawn from the imposts. The consumption of foreign articles must be limited by the ability to pay for them. The large importation of last year was scarcely half sold. There were goods enough on hand nearly sufficient to supply the ensuing year’s demand. Under all these circumstances we were hooted at for talking of economy. Whatever gentlemen might say or insinuate about speeches calculated to insure popular favor, he would never vote one shilling until he saw the

public resources better husbanded. A gentleman from Massachusetts, (Mr. ORIS,) who had taken exception to the term, had told us that we could not “squeeze” the public, without squeezing ourselves. Mr. R. said that he did not make professions of uncommon patriotism; that it was not the least of his objections to taxing his constituents that he must also burden himself, and his property being of that kind which exposed it to be “squeezed” on all occasions, rendered him particularly averse to the operation. The member from Massachusetts spoke lightly of our reluctance to part with money. That gentleman was eminent in a lucrative profession; and did he too derive a handsome revenue from talking, he might perhaps be less averse to voting away money.

A gentleman from South Carolina, in a long detail, to which I cannot, with my colleague, (Mr. LEE,) attach the epithet of a “learned history,” has been so very candid as to allow that the friends of the resolution (at least some of them) are actuated by pure motives in the support which they have given it. I felt disposed to thank the gentleman for this great degree of charity; but, sir, the burden of obligation was lifted from my shoulders when he talked of modern patriotism, which consisted in declamation against public burdens and a devotion to France. When it is considered that those against whom these insinuations were thrown, had not only “drawn in love of country with their mother’s milk,” but were attached by every tie which could bind the heart of man to the soil which gave him birth, and in which their property consisted, the Committee would decide upon the motives by which their conduct had been actuated. When it was recollected that they were supposed to have been peculiarly friendly to the mission to France and to be highly anxious for its success, whilst the opponents to the resolution exhibited a great coolness with regard to a compromise of differences with that Republic, he trusted that the alarm with respect to the effect of the measure under discussion upon that negotiation would wear off. Mr. R. declared that although he had become the object of what the member from South Carolina no doubt intended as a chastisement, he had no reason to regret it. He was, on the contrary, glad that he had excited the gentleman’s animadversion, since by that means the Committee had been favored with the very correct, luminous, and conclusive observations of the gentleman from Pennsylvania, (Mr. GALLATIN,) which must have carried conviction to every unprejudiced mind, and would doubtless produce a decided approbation of the measure now under consideration.

Mr. R. said that although this army had been ordered into existence so long, yet scarcely 4,000 men were raised; and, if the recruiting went on, it would take a year perhaps to fill the regiments. Would not this be a stronger proof to France of our debility, than the disbanding of them, which would indicate only a prudent application of resources to proper objects. But, in fact, sir, this circumstance is a proof the most decisive of the inutility of this force. In spite of the system of

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alarm, and the cry of danger from French invasion, the good sense of the country still prevailed. Our people knew that there was no immediate danger, nor can they hear it in every breeze; they therefore refused to enter a service into which the indolent and worthless had been allured by the potent consideration of being clothed and fed at public expense. Would this tardiness to defend their country, sir, be exhibited were the danger imminent, as gentlemen had alleged? He cautioned the members of the House, particularly from the South, against lavishing, by the smallest estimate which had any pretension to correctness, at least two and a half millions, perhaps four, upon so worthless an object. As to the proposal to stop the enlistments and retain the officers upon pay, without any nominal duty to perform, he declared that it would justly excite the public indignation. With these remarks he concluded by expressing a hope that the resolution would be carried.

The Committee now rose, and reported their disagreement to the resolution.

The question was taken that the House do agree with the Committee of the Whole in their said disagreement, and resolved in the affirmative—yeas 60, nays 39, as follows:

YEAS—William Alston, George Baer, Bailey Bartlett, James A. Bayard, John Bird, Jonathan Brace, John Brown, Christopher G. Champlin, William Cooper, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, George Dent, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Samuel Goode, Chauncey Goodrich, Elizur Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, Archibald Henderson, William H. Hill, Benjamin Huger, James H. Inlay, John Wilkes Kittera, Henry Lee, Silas Lee, Samuel Lyman, James Linn, John Marshall, Lewis R. Morris, Abraham Nott, Harrison G. Otis, Robert Page, Josiah Parker, Jonas Platt, Leven Powell, John Reed, John Rutledge, jun., Samuel Sewall, James Sheafe, William Shepard, Samuel Smith, Benjamin Taliaferro, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

NAYS—Theodorus Bailey, Phanuel Bishop, Robert Brown, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, Thomas T. Davis, John Dawson, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Gallatin, Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, George Jackson, James Jones, Aaron Kitchell, Michael Leib, Matthew Lyon, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, John Randolph, John Smilie, Richard Stanford, David Stone, Thomas Sumter, John Thomson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

MONDAY, January 13.

SAMUEL J. CABELL, from Virginia, appeared, produced his credentials, was qualified, and took his seat in the House.

A memorial of Paul Bentalou, and others, merchants, of the city of Baltimore, late owners of the

ship *Flora*, was presented to the House and read, stating that they have sustained considerable loss in consequence of an illegal detention, as they conceive, of the said ship at the port of Edgartown, in the State of Massachusetts, by the officers of the United States, acting under the law entitled "An act to suspend the commercial intercourse between the United States and France, and the dependencies thereof," and praying compensation for the same.

Ordered, That the said petition be referred to the Committee of Commerce and Manufactures.

Two petitions of Cato West and others, in behalf of themselves and the other inhabitants of the Mississippi Territory, were presented to the House and read; the first complaining of the political system by which the said Territory is governed, and the present mode of its administration, and praying that the operation of the ordinance of Congress, passed the thirteenth of July, one thousand seven hundred and eighty-seven, with such amendments as shall seem expedient, may be extended to the said Territory: the other, praying that an act may be passed confirming to the citizens of the said Territory all grants of lands legally and justly obtained prior to the ratification of the late treaty with Spain.

Ordered, That the first of the said petitions be referred to Mr. CLAIBORNE, Mr. GRISWOLD, Mr. HENDERSON, Mr. NOTT, and Mr. BARTLETT, to examine the matter thereof, and report their opinion thereupon to the House; and that the second be referred to the committee to whom was referred, on the twenty-fourth ultimo, the petitions of John Henderson and others, and of Thomas Burling and others.

Mr. OTIS, from the committee to whom was referred, on the ninth ultimo, so much of the President's Speech as relates to "a system of national defence, commensurate with our resources and the situation of our country," made a report, in part; which was read, and ordered to lie on the table.

A Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

A report made to me, on the fifth of this month, by the Secretary of War, contains various matters, in which the honor and safety of the nation are deeply interested; I transmit it therefore to Congress, and recommend it to their serious consideration.

JOHN ADAMS.

UNITED STATES, Jan. 13, 1800.

The said Message, and report accompanying the same, were read, and ordered to be referred to the committee to whom was referred, on the ninth ultimo, so much of the President's Speech as relates to "a system of national defence, commensurate with our resources and the situation of our country."

Ordered, That the petition of Charles Pettit, presented the 31st ultimo, and which was laid on the table, be referred to the Committee of Claims.

Ordered, That the report of the Secretary of War, on the seventh instant, exhibiting the expenses

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of the national armory at Springfield, in the State of Massachusetts, which lay on the table, be referred to the committee to whom was referred, on the ninth ultimo, so much of the President's Speech as relates to "a system of national defence, commensurate with our resources and the situation of our country;" with power to report thereon by bill, or bills, or otherwise.

Ordered, That the Message of the President of the United States, of the 8th instant, transmitting sundry statements relative to the Mint of the United States, prepared by the officers thereof, and which lay on the table, be referred to Mr. DWIGHT FOSTER, Mr. CHAUNCEY GOODRICH, and Mr. PAGE.

On a motion made and seconded that the House do come to the following resolution, to wit:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of State be, and he is hereby, authorized and directed to procure and transmit to the Governor of the State of North Carolina, a number of copies of the laws of the United States, equal to the number which the Secretary was heretofore authorized to transmit to the Governor of the said State, by an act, entitled "An act for the more general promulgation of the laws of the United States," to be deposited and distributed agreeably to the provisions of the said act, for the use and information of the citizens of the United States within the said State:

Ordered, That the said motion be referred to Mr. HILL, Mr. KITTERA, and Mr. NICHOLAS.

Resolved, That the Committee of Claims be instructed to inquire whether any, and, if any, what, alterations ought to be made in the law passed on the twelfth day of June, one thousand seven hundred and ninety-eight, entitled "An act respecting loan office and final settlement certificates, indents of interest, and the unfunded or registered debt credited in the books of the Treasury.

Resolved, That the act, entitled "An act concerning certain fisheries of the United States, and for the regulation and government of the fishermen employed therein," and all acts for amendment of the same, be referred to the Committee of Commerce and Manufactures, to consider and report as to the expediency of continuing the same, and whether any, and, if any, what, alterations may be necessary therein.

The House, resolved itself into a Committee of the Whole on the bill to repeal part of an act, entitled "An act to provide for mitigating the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned;" and, after some time spent therein, the Committee rose and reported their agreement to the same without amendment.

Ordered, That the said bill be engrossed, and read the third time to-morrow.

Resolved, That a committee be appointed to prepare and report a bill to continue in force "An act declaring the consent of Congress to a certain act of the State of Maryland," and to continue "An act declaring the consent of Congress to certain acts of the States of Maryland, Georgia, and Rhode Island and Providence Plantations, so far as the same respects the States of Georgia and Rhode Island;" and that the Committee of Revisal, &c., do prepare and bring in the same.

TUESDAY, January 14.

An engrossed bill to repeal part of an act, entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned," was read the third time and passed.

Mr. GRISWOLD, from the Committee of Revisal and Unfinished Business, to whom it was referred to examine and report what laws of the United States have expired, or are near expiring, made a farther report, in part; which was read, and ordered to be committed to a Committee of the Whole House to-morrow.

The House resolved itself into a Committee of the Whole on the motion to amend the "Act for laying duties on stamped vellum, parchment, and paper;" and, after some time spent therein, Mr. SPEAKER resumed the Chair, and Mr. MORRIS reported that the Committee had had the said motion under consideration, and come to a resolution thereupon; which he delivered in at the Clerk's table, where the same was twice read, and agreed to, as follows:

Resolved, That it is expedient so to amend the "Act for laying duties on stamped vellum, parchment, and paper," as to abolish the offices thereby established for the stamping of vellum, parchment, and paper, in the several districts of the United States, and to establish, at the seat of Government, one general office for that purpose.

Ordered, That a bill or bills be brought in, pursuant to the said resolution, and that the Committee of Ways and Means do prepare and bring in the same.

CASE OF MR. RANDOLPH.

A Message was received from the PRESIDENT of the UNITED STATES, as follows:

Gentlemen of the House of Representatives:

As the enclosed letter, from a member of your House, received by me in the night of Saturday, the eleventh instant, relates to the privileges of the House, which, in my opinion, ought to be inquired into in the House itself, if anywhere, I have thought proper to submit the whole letter and its tendencies to your consideration, without any other comments on its matter or style: but, as no gross impropriety of conduct, on the part of persons holding commissions in the Army or Navy of the United States, ought to pass without due animadversion, I have directed the Secretary of War and the Secretary of the Navy to investigate the conduct complained of, and to report to me, without delay, such a statement of facts as will enable me to decide on the course which duty and justice shall appear to prescribe.

JOHN ADAMS.

UNITED STATES, Jan. 14th, 1800.

CHAMBER OF REPRESENTATIVES OF THE U.S.,
11th January, 24th of Independence.

SIR: Known to you only as holding, in common with yourself, the honorable station of servant to the same sovereign people, and disclaiming all pretensions to make to you any application which, in the general estimation of men, requires the preface of apology, I shall, without the circumlocution of compliment, proceed to state the cause which induces this address

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For words of a general nature, uttered on the floor of this House, and addressed, in my official capacity, to the Chairman of the Committee of the Whole, and urged with a view to effect the reduction of a Military Establishment, I have been grossly and publicly insulted, by two officers of the army (or navy, I know not which) with evident intention to provoke me to a conduct which, in some sort, might justify the hostile designs which they manifestly entertained towards me, and from the execution of which, I believe, they were only deterred by the presence of several of my friends (members of this House) who felt themselves implicated in an insult, which, although more particularly offered to one, was certainly levelled at all.

I am acquainted with the name of one only of these unfortunate young men, who appear to have made so false an estimate of true dignity of character; who seem to have mistaken brutality for spirit, and an armed combination against the person of an individual for an indication of courage. He was called, I think, McKnight—rank unknown,—and, to my best recollection, of the navy. Mr. Christie, a member of this House, appeared to know him; and that gentleman, with Capt. Campbell Smith, who, as I understood, endeavored to deter those rash youths from their scheme, and whose conduct would evince, if indeed there were any need of proof, that the character of the man and the citizen is not incompatible with the profession of the soldier, can give an account of the various instances of misconduct which were exhibited by the parties. Mr. Van Rensselaer, the Lieutenant Governor of New York, Mr. Nicholson, Mr. Glenn, and Mr. Macon, of the House of Representatives, were likewise present at these transactions.

Having stated the fact, it would be derogatory to your character, sir, for me to point out the remedy, which it is your province to provide, nor shall I descend from the respect which I owe myself to declare what are not the considerations which govern my conduct on this occasion. So far as they relate to this application, addressed to you in a public capacity, they can only be supposed by you to be of a public nature; and it is enough for me to state that the independence of the Legislature has been attacked, the majesty of the people, of which you are the principal representative, insulted, and your authority contemned. In their name, I demand that a provision commensurate with the evil be made, and which will be calculated to deter others from any future attempt to introduce the reign of terror into our country. In addressing you, in the plain language of man, I give you, sir, the best proof that I can afford of the estimation in which I hold your office and your understanding; and I assure you with truth that I am, with respect, your fellow citizen,

JOHN RANDOLPH, Jr.

THE PRESIDENT OF THE UNITED STATES.

Mr. KITTERA moved that the Message and letter accompanying it be referred to a Select Committee.

Mr. RANDOLPH hoped it would not. It was far from his expectation, he said, when he addressed the letter now before the House to the President, that it would have been made the subject of a communication. Had he thought the House could have remedied the abuse complained of, he would have entered his complaint here; but he did not conceive it within their jurisdiction; and he was opposed to it, as being a bad precedent, which might at some future period be prostituted to purposes

injurious to the country. The power of the Commander-in-chief of the Army, in his opinion, was sufficient to afford a remedy, and to restrain men under his command from giving personal abuse and insult. And he therefore disclaimed any wish that the House should take measures for his protection.

The voice of the House appeared to be unanimous for the commitment, and several members expressed an opinion that the President, in submitting the subject to the House, had acted judiciously, it being a question on which he could not, dare not, decide. It was a Constitutional prerogative vested in that House alone, and that House, after having a statement of facts, were to be the sole judges of them. The wish of the complainant to suspend inquiry ought not to have any weight; for if a member was to be insulted for language made use of in debate, there was an end to all legislation, and they might as well return to their homes at once.

The said Message, together with the letter accompanying the same, were read, and ordered to be referred to Mr. CHAUNCEY GOODRICH, Mr. MACON, Mr. KITTERA, Mr. JONES, Mr. SEWALL, Mr. ROBERT WILLIAMS, and Mr. BAYARD.

The House then resolved itself into a Committee of the Whole on the bill to reform the Superior Court of the Territory of the United States Northwest of the river Ohio; and, after some time spent therein, rose and had leave to sit again.

WEDNESDAY, January 15.

Ordered, That Mr. MACON be excused from serving as a member of the committee to whom was referred the Message received, yesterday, from the President of the United States, and that Mr. HANNA be appointed in his stead.

On motion, it was

Resolved, That the Clerk of this House be directed to furnish each of the Members of this House with a set of the laws passed by the Fifth Congress of the United States.

The House proceeded to consider the report made on Monday last, by the committee to whom was referred so much of the President's Speech as relates to "a system of national defence, commensurate with our resources and the situation of our country," which lay on the table; and the same being again read, in the words following, to wit:

"That, in the opinion of the committee, no such material change in the state of the foreign relations of the United States has happened, as would justify a relinquishment of any of the means of defence heretofore adopted by Congress, but that the national honor and interest in the present posture of affairs make it prudent and necessary to continue prepared for the worst event: but while danger still threatens our country, yet circumstances having diminished the probability of an immediate invasion, the attention of the committee has been particularly directed to the state of the Military Establishment, with a view to reconcile safety with economy, to preserve the establishment, and retrench the expense. The annexed abstract and letter from the Secretary of War exhibit the state of the twelve

new regiments of infantry, according to the latest returns. As these men have received their bounty and clothing, and are daily improving in discipline; as they would be useful in any sudden emergency, and the greater part of them may also be usefully employed, until wanted for actual service, on the fortification of ports and harbors, it is conceived proper to retain them, but to suspend the recruiting service until the approach of danger shall compel the Government to resume it. This project combines the advantage of an important reduction of the national expense, with that of having at command a body of officers ready for service upon short notice, and a number of disciplined troops sufficient for the present occasion.

"The committee, therefore, submit the following resolution :

"*Resolved*, That, from and after the — day of — next, all enlistments under an act, entitled "An act to augment the Army of the United States, and for other purposes," shall be suspended until the next session, unless war should break out between the United States and a foreign European Power, or in case imminent danger of invasion of their territory by any such Power shall, in the opinion of the President of the United States, be discovered to exist."

The question was taken that the House do agree to the resolution contained in the said report, and resolved in the affirmative.

Ordered, That a bill or bills be brought in pursuant to the said resolution, and that Mr. OTIS, Mr. NICHOLAS, Mr. EDMOND, Mr. ABIEL FOSTER, Mr. CHAMPLIN, Mr. WALN, and Mr. HILL, do prepare and bring in the same.

Ordered, That the Committee of the Whole House to whom was referred the report of the Committee of Revisal and Unfinished Business, made yesterday, recommending the appointment of a committee to prepare and bring in a bill to continue in force, for a limited time, the act, entitled "An act further to suspend the commercial intercourse between the United States and France, and the dependencies thereof," be discharged from the consideration of the same; and that the said report be referred to the Committee of Commerce and Manufactures, with power to report thereon by bill or bills, or otherwise, and with instruction to inquire and report in what manner, and to what effect, the act suspending commercial intercourse with France has been executed.

THURSDAY, January 16.

Mr. OTIS, from the committee appointed, presented a bill to suspend, in part, an act, entitled "An act to augment the Army of the United States, and for other purposes;" which was read twice and committed to a Committee of the Whole House to-morrow.

FRIDAY, January 17.

A petition of sundry inhabitants of the Northwestern Territory, northwest of the Great Miami river, was presented to the House and read, praying a repeal or amendment of the law providing for the sale of the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river.

Ordered, That the said petition be referred to the committee appointed, on the twenty-fourth ultimo, to inquire whether any, and, if any, what, alterations are necessary in the laws authorizing the sale of the lands of the United States northwest of the Ohio.

Mr. OTIS, from the committee to whom was referred, on the twenty-third ultimo, the petition of Robert Sturgeon, made a report; which he delivered in at the Clerk's table, where the same was twice read, and considered: Whereupon,

Resolved, That Robert Sturgeon be discharged from his confinement, upon a judgment in favor of the United States, upon his making an assignment of all estate, real and personal, to which he may be entitled, to the acceptance of the Secretary of the Treasury: Provided, however, that the said judgment shall remain in full force against any property which he may hereafter acquire.

Ordered, That a bill or bills be brought in, pursuant to the said resolution; and that Mr. OTIS, Mr. BIRD, and Mr. STONE, do prepare and bring in the same.

The House then resolved itself into a Committee of the Whole on the bill to suspend, in part, an act, entitled "An act to augment the Army of the United States;" and, after some time spent therein, the Committee rose, reported progress, and had leave to sit again.

MONDAY, January 20.

A memorial of the General Assembly of the Territory of the United States Northwest of the river Ohio, signed by Edward Tiffin, Speaker of the House of Representatives, and H. Vandeburg, President of the Council, stating the unhappy situation of a large number of the citizens of the county of Hamilton, in the said Territory, residing on lands purchased from John Cleves Symmes, under a conviction that the said Symmes had a right to dispose of the same in virtue of his contract with the United States; that, having paid their money into the hands of Judge Symmes, they are deprived of the means of making their payments, as at present required by the United States; and requesting that such indulgence may be extended to the said purchasers as to the wisdom of Congress may seem meet.

Ordered, That the said petition be referred to the committee appointed, on the twenty-fourth ultimo, to inquire whether any, and, if any, what, alterations are necessary in the laws providing for the sale of the lands of the United States Northwest of the Ohio.

The House resolved itself into a Committee of the Whole on the bill to establish an uniform system of bankruptcy throughout the United States; and, after some time spent therein, the Committee rose and had leave to sit again.

A Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

In obedience to the law, I transmit to Congress my annual account of the contingent fund.

JOHN ADAMS.

JANUARY, 1800.

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The said Message, and account accompanying the same, were read, and ordered to lie on the table.

CASE OF MR. RANDOLPH.

Mr. C. GOODRICH, from the committee to whom was referred the Message of the President of the United States of the 14th instant, together with a letter from JOHN RANDOLPH, JUN., a member of the House, accompanying the same, made a report, which was read and ordered to lie on the table.

On motion, it was ordered, that the Message of the President, and Mr. RANDOLPH's letter to him, the report of the committee, and testimony accompanying it, be printed for the use of the members.

The reading of the testimony being called for,

Mr. HARTLEY said, that as the whole was ordered to be printed, he thought it at present unnecessary, and therefore moved an adjournment.

Upon the question, Will the House adjourn? it was negatived—yeas 35, nays 56.

The testimony was then read, as follows:

Mr. Randolph's statement to the Committee.

JANUARY 18, 1800,

24th year of Independence.

SIR: A mature consideration of the subject induces me to suspect that a refusal on my part to communicate the information requested by you a few days ago could only have originated in a false delicacy, under the impulse of which I am determined never to act. I shall, therefore, proceed to state some instances of the misconduct of Captain McKnight and Lieutenant Reynolds, on the night of Friday, the 10th instant.

Exclusive of repeated allusions to what passed in the House of Representatives during the debate of the preceding day, and a frequent repetition of some words which fell from me during that discussion, in a manner so marked as to leave no doubt on my mind or that of Messrs. Van Rensselaer, Christie, or Macon, of their intention to insult me personally; finding me determined to take no notice of their words, they adopted a conduct which placed their designs beyond every possibility of doubt, and which they probably conceived to be calculated to force me into their measures. Mr. Christie had left his seat between me and the partition of the box; after which Mr. Van Rensselaer, who sat on the other side of me, lay down, so as to occupy a more than ordinary portion of room, and occasioned my removal to a part of Mr. Christie's former seat, leaving a very small vacancy between myself and the partition; into this Lieutenant Reynolds suddenly, and without requesting or giving time for room to be made for him, dropped with such violence as to bring our hips into contact; the shock was sufficient to occasion a slight degree of pain on my part, and for which it is probable he would in some degree have apologized had not the act been intentional.

Just before I left the box, one of them, I believe McKnight, gave me a sudden and violent pull by the cape of my coat; upon my demanding who it was, (this was the first instance in which I noticed their proceedings,) no answer was given; I then added, that I had long perceived an intention to insult me, and that the person offering it was a puppy. No reply that I heard was given.

It will be impossible for me, sir, to specify the various minute actions of these persons and their associates

which tended to the same point. Suffice it to say that their whole deportment exhibited an insolence, and their every act betokened a bold defiance, which can neither be *defined* nor *mistaken*; and which, according to the general received opinions of the world, would not only have *justified* but *demand*ed chastisement.

Referring the committee to the numerous and authentic accounts of this transaction, which the gentlemen present are so well calculated to give, I remain with respect, sir, your fellow-citizen,

JOHN RANDOLPH, JUN.

The CHAIRMAN of the Committee, &c.

Mr. Christie's Affidavit.

On the 17th January, 1800, came the subscriber before the Hon. C. Goodrich, chairman of a committee of Congress, and being sworn, depose and saith, that, on Friday evening, the 10th of January, I was sitting in a box of the theatre: I was shortly after joined by Mr. Randolph, Mr. Nicholson, Mr. Macon, Mr. Baer, Mr. Glen, General Van Cortlandt and Mr. Van Rensselaer, of New York; they all took seats near me; shortly after Mr. Baer went out of the box; the others remained; after the play was over, and about the time that the farce was beginning, I discovered in an adjoining box Captain McKnight and a gentleman, whose name I have since found to be Reynolds, both officers of the navy; I saw also in company with them Captain George Taylor, of this city; I saw them repeatedly look towards our box, and whispering to each other. When the procession came forward on the stage, Captain McKnight called out that they were well-looking mercenaries; I then began to discover, what I had before suspected, that some of these gentlemen intended to offer Mr. Randolph or some of us an insult, on account of the part we took in the House of Representatives respecting the army. It was my intention to have left the theatre early, but I remained, fearing a disturbance would take place between Mr. Randolph and those gentlemen, who manifestly evinced an intention of insulting him; Mr. Randolph took no notice of anything that was said; and I overheard a person (who it was I know not) say to Captain McKnight and Mr. Reynolds, "He does not hear you, go nearer to him;" Captain McKnight and Mr. Reynolds then left the box they were in, and came round into that in which we were, and got as close to Mr. Randolph as they could; so near as to touch him; Captain Taylor did not leave the box at the time they did, but remained behind; Captain McKnight called out to Captain Taylor, what do you think of these ragamuffins—these ragamuffins are not Pennsylvanians, they are black Virginia ragamuffins; Captain Taylor laughed, but made no reply; Captain McKnight and Mr. Reynolds afterwards repeated the words mercenaries and ragamuffins, and said that they were not well drilled, but would be better at the next session of Congress. Finding that none of us took any notice of what was said, Mr. Reynolds stepped with his feet on the seat on which Mr. Randolph was sitting, and sat down, although there was little or no room for a seat; he crowded Mr. Randolph in sitting down, and I believe sat upon his thigh; Mr. Randolph moved, to give as much room as he could. Mr. Reynolds remained for about fifteen minutes, and stepped back, upon which Captain McKnight came forward and took his place, observing the same conduct as Mr. Reynolds had done in sitting down. Captain McKnight spoke to me, and I gave him my hand; Captain George Taylor then

came round to our box, and took his place at the back of Captain McKnight, and used once or twice the words mercenaries, and appeared to me to understand fully the intentions of Captain McKnight and Mr. Reynolds, and appeared to be desirous of forwarding their views; they all three remained in the box until the farce was over, and as Mr. Randolph got up to go out, I heard him call out "who was that that pulled me by the coat?" I looked, and saw Captain McKnight, Mr. Reynolds, and Captain Taylor, at his back; I got before them, and walked with Mr. Randolph; in going out of the lobby, a gentleman, whose name I do not know, told me not to leave that gentleman, (meaning Mr. Randolph,) for it was the intention of those persons to use him ill; I therefore walked with him to the head of the stairs, and in going down was pressed on so closely by Captain McKnight and others, that it was with difficulty I could keep on my feet; I looked back and called out to them not to crowd me, and they desisted; in going out of the house, Captain Taylor and Captain McKnight came arm in arm and pushed by us, and would hardly get out of our way, but walked slowly before us to the corner of Fifth street, when we turned off; Captain McKnight called to me and wished me good night, which compliment I returned. From the whole of their conduct, it appeared to me evidently the intention of the whole three to provoke Mr. Randolph to reply to their observations, so as to bring on a quarrel; that Captain McKnight and Mr. Reynolds did jostle Mr. Randolph on his seat, and used many expressions that fell from Mr. Randolph in the House of Representatives in the debate on the reduction of the army; and it appeared to me that they had taken offence at these expressions, and were determined to provoke him to a quarrel.

G. CHRISTIE.

Sworn to, on the 18th day of January, A. D. 1800, before me,

C. GOODRICH, *Chairman, &c.*

Mr. Nicholson's Affidavit.

On the evening of Friday, the 10th instant, I went to the theatre, in company with Mr. Nicholas, Mr. Stone, Mr. Macon, and Mr. Randolph. When we reached the theatre, our company accidentally separated; Mr. Macon, Mr. Randolph, and myself going into one box. After remaining there some time, we were joined by Mr. Van Rensselaer, the Lieutenant Governor of New York, and General Cortlandt, of the House of Representatives. General Cortlandt and myself were seated on one of the front benches, and, as I was attending to the play, I did not hear the remarks which are said to have been made with the view of insulting Mr. Randolph. During the performance of the afterpiece, I was called out by Captain Campbell Smith, who informed me that he had understood Mr. Randolph had been insulted by some officers, and inquired if I had heard anything of it; at the same time stating the cause to be Mr. Randolph's observations of that day or the day before in Congress. I told Captain Smith I had heard nothing of it, and asked him about the kind of insult which had been offered; he answered that he was not present himself, but from what he had heard he was apprehensive of some disagreeable consequences. I remained in the upper part of the box, where I could see every thing passing in front, and observed with attention the two officers who had been pointed out to me; they were in conversation, but I was not near enough to hear it distinctly. Their names, I am told, are McKnight and

Reynolds; the one dressed in plain clothes, or perhaps his coat might have been trimmed with a light edging of buff cloth; the other in a blue and red uniform, with a sword. At the conclusion of the entertainment, I stepped forward, with the intention of protecting Mr. Randolph from any injury, and at the same time called to him to know if he would walk. He, with Mr. Macon and a number of others, had risen from their seats, and were going out of the box. As one, if not both, of the officers remained behind, I suffered Mr. Randolph to pass me, designing to follow closely after him. At that time I saw Mr. McKnight throw himself forward, with one arm extended, and at the same moment heard Mr. Randolph call out "*who was that that jerked my coat?*"—Mr. McKnight passing by him just then. Mr. Randolph made the same exclamation a second time, and added that the person was a damned puppy, let him be who he might. Upon reaching the large passage, Mr. Macon, Mr. Christie, with several others, surrounded Mr. Randolph, and, in going down stairs, I felt myself pushed with great violence, as I thought for the purpose of throwing me upon Mr. Randolph. I found it necessary to resist the pressure, which I believe would have been impossible if I had not been a very heavy man. Whether Mr. McKnight was the person who jerked Mr. Randolph's coat, or whether those two officers were concerned in attempting to push him down stairs, I will not pretend to say. I have stated the facts as nearly as I can recollect them, and from those facts the committee will draw their own inferences.

It is necessary to add, that when Mr. McKnight threw himself forward in the box, as above stated, there were two persons passing between him and me, which prevented me from seeing whether he took hold of Mr. Randolph or not. The staircase was darker than usual, owing, I believe, to the lamps having burnt out, the hour being later than common; and this prevented me from seeing those persons who were pressing forward with so much violence.

JOSEPH H. NICHOLSON.

Sworn to, on the 18th day of January, A. D. 1800, before me,

C. GOODRICH, *Chairman, &c.*

Mr. Macon's Affidavit.

I was at the play last Friday night, and in the same box with Mr. Randolph and others. Some time after the play had been begun, the door of the box in which we were was opened so often that I turned towards the door to see who opened it, and what it could be for, but did not then discover any one going out or coming in, though I saw several people who had come into the box and taken seats behind us. Still looking towards the door, I saw a young man, with a blue coat, go out. Soon afterwards the door was opened again; I looked back, and saw him behind us, in company with a man who had on a uniform coat; others were also behind us. These men were frequently going out of the box, and, after a little time, returning again. I do not recollect to have heard either of them say a single word until the farce was begun, when the man dressed in blue said, these ragamuffins march very well, (the players were then marching.) At this time, I think, a third person was with them, who had on a great coat; if he was not, he was with them very soon after. The same words were quickly repeated by the same person standing near Mr. Randolph, who was sitting. Mr. Van Rensselaer, who sat by Mr. Randolph, and nearly be-

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hind me, said these men intend to insult Mr. Randolph; I answered, it appeared much like it. The word ragamuffin was afterwards used, though I do not know by which of the three. After this, when some of the players appeared in a different dress, words were spoken by one of these three men, which I do not know, nor could I hear them plain enough to understand clearly what they said. At another time, when the players were marching, one of these men, I know not which, said, these ragamuffins march badly; they want drilling, and will do better by another session. The man with the great coat did not, I think, stay long in the box, nor am I certain that he was there when these last words were spoken. The one with the uniform coat staid more in the box after the farce was begun than either of the others. The one with the blue coat continued to go out and to return. Both these men were in the box, I think, at the time we got up to go out. During the farce, and when the scenery was changing, Mr. Randolph stood up before his seat; as soon as he rose, the man who had on the uniform coat (and at this time I saw that he had a sword) stepped on his seat, and stood on it, until Mr. Randolph sat down; he then stepped off the seat, and immediately crowded in between Mr. Randolph and the side of the box, where there did not appear to be room for him to sit either with pleasure or ease. Mr. Randolph instantly made what room he could for him; he did not continue long in his new seat, but got up again, and stood behind us, where he had room neither to stand or sit.

As we were going out of the box, about the time the farce was finishing, Mr. Randolph being near the door and before me, I heard him ask who had taken hold of him, and said that whoever it was that he must be a puppy. I got to him as quick as I could, and before he went out of the box; several people were near him when I got to him; he went out of the box; we followed him; as soon as we had got clear of the box, a man said to Mr. Christie, keep near to that man, meaning, as I understood, Mr. Randolph; we walked to the stairs; Mr. Randolph went down before me; as I stepped on the stairs, I took hold of the hand of the man next to me, (I think it was General Van Cortlandt,) and supported myself with the other as well as I could, and it was with great difficulty that I was able to prevent being pushed down; some person behind me (I think it was Mr. Christie) said to those behind him, do not push so hard. Messrs. Van Rensselaer, Glen, and Christie, were nearer these men than myself, and may have heard their expressions more distinctly than I did.

Sir, the above is a statement of the facts you asked for. I have endeavored to keep it clear of the impressions that were made on me at the time.

NATHANIEL MACON.

HON. CHAUNCEY GOODRICH.

Sworn to, on the 18th day of January, A. D. 1800 before me,

C. GOODRICH, *Chairman, &c.**H. Glen's Affidavit.*

PHILADELPHIA, Jan. 14, 1800.

HENRY GLEN, a member of the House of Representatives of the United States, saith:

That in the evening of Friday, the tenth of this month, he went, in company with the Hon. Stephen Van Rensselaer, Lieutenant Governor of the State of New York, to the theatre in this city. Finding vacant seats, we placed ourselves in a front box, where were Mr. Macon and Mr. Randolph, both members of the

House of Representatives. I seated myself by the side of Mr. Macon, and the Lieutenant Governor took a seat by the side of Mr. Randolph. Looking round, I found Messrs. Baer, Christie, and Nicholson, all members of the House, were behind, not far from us.

After a very short time, two gentlemen in uniform, whom I took to be marine officers, came near, and were with us in the same box. In the course of the entertainments nothing happened, to my knowledge, to interrupt the cheerfulness and good-humor which prevailed among us.

When the afterpiece was performing, a number of men, with a drum, pikes, &c., appeared on the stage; upon a view of this scene, one of the gentlemen in uniform, addressing himself, as I supposed, to his companion, said, "I think our ragamuffins would make a better appearance than those men," or words to that effect. No particular notice appeared to be taken of the expression, and, as soon as the curtain was dropped, the officers back of us went out; so did the other gentlemen who were with us.

The Lieutenant Governor and I remained a little time in the box till the crowd had passed, and I saw none of the gentlemen before mentioned afterwards. This statement is made according to my best recollection.

HENRY GLEN.

Sworn to, on the 18th day of January, A. D. 1800, before me,

C. GOODRICH, *Chairman, &c.**Captain Campbell Smith's Deposition.*

PHILADELPHIA, Jan. 15, 1800.

In obedience to the request of the committee to whom was referred the Message of the President of the United States, with the letter of Mr. Randolph, a member of your House, complaining of his having been insulted by two officers of the army or navy, as signified in the note of the honorable Mr. Goodrich to me of this day, I have only to state that I was not present or within hearing when the abuse, as alleged, took place; that I went into the theatre at a late period of the exhibition, but a very little time before the first part was completed, and was sitting, in company with Colonel Butler, in one of the lower boxes, when a gentleman of our acquaintance came and informed me of what had happened above, relative to Mr. Randolph and the officers, but whose expressions I do not now recollect; that immediately, aware in my own mind of the imprudence of such conduct in such a place, and apprehensive that some of my military acquaintances might be there, I went up stairs to the door of the box in which Mr. Randolph and some other members of Congress were sitting; at the door of the box, I met a gentleman of this city whom I knew, and of whom I asked the question, "Who is that gentleman in uniform?" looking at an officer in the box, and received for answer that he did not know, but if I wished to be acquainted with him, he would introduce me to Captain McKnight who was there, and who would introduce him to me; this, however, did not take place at this time. I afterwards discovered a member from Maryland, of my acquaintance, in the adjoining box, of whom I inquired if he knew what had happened? He answered in the negative; I told him what I had heard, and that I was apprehensive a fracas might ensue; in moving through the house, I met an officer of the army, to whom I mentioned my information and apprehensions; he accorded with me in opinion, and we went to the door of the box in which Mr. Randolph was. Here a tender was again made to

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me, by the same gentleman, of an introduction to Captain McKnight, which did not, however, occur; we went to another part of the house, and returned some little time afterwards, when, something being said which I do not now remember, the gentleman before alluded to called out Captain McKnight, and introduced me to him; the captain called out the gentleman in uniform, whose name I had inquired, and introduced him to me as Lieutenant Reynolds. Just after the usual salutes had occurred, our attention was called to the stage, and the captain and lieutenant returned (as I supposed) to their seats in the box, and I went to an opposite quarter of the house.

When the entertainments closed, I went out amongst the first, and stood on the pavement above the theatre, till I saw Mr. Randolph come out with several members of Congress; in their rear were the captain and lieutenant. They all moved down Chestnut street; I followed them to the corner of Sixth, and turned up and retired to my quarters.

The next evening I was in company with Mr. Randolph and several other members of Congress, when the occurrence at the theatre on the night before was talked of; from which company, as I retired, Mr. Randolph followed me into the entry of the house, and observed to me that he had taken the liberty to mention my name in a letter which he had that morning written to the President of the United States, requiring an investigation into what had happened the night before at the theatre; to which I replied that I had no objection to attest what I knew, and we parted.

CAMPBELL SMITH.

Question. Did you observe any acts or expressions of Captain McKnight, or of any other person, which you apprehended designed to insult Mr. Randolph?

Answer. I did not.

Q. Were you present at any time when Captain McKnight and Lieutenant Reynolds were in the box with Mr. Randolph?

A. I was several times at the door of the box in which those gentlemen were.

Q. Did you at any of those times observe any exceptional conduct on the part of those gentlemen?

A. I did not; they were sitting perfectly quiet.

CAMPBELL SMITH.

Sworn to, on the 18th day of January, A. D. 1800,
before me,
C. GOODRICH, *Chairman, &c.*

Captain James McKnight's Statement.

On Thursday, the 9th instant, I returned to Philadelphia after having guarded fifty-four French prisoners to Fredericktown, Maryland; on the evening of my arrival I obtained permission to be absent until the day following; the night I spent with my family at Captain Decatur's seat, fourteen miles from the city, and I did not return until twelve o'clock on Friday, at which hour I was ordered on a court-martial, which did not adjourn until three o'clock; I did not quit my quarters until six o'clock, at which hour I went to the theatre alone, in an undress, and without arms; after remaining in the theatre for some time, I was joined by several acquaintances. On my return to the theatre, I went by accident into the box, where the person sat that I now know as Mr. Randolph; on the appearance of a number of persons in the garb of Turks, I remarked that our ragamuffins would make a better appearance, and several times during the evening, I repeated the words ragamuffins and mercenaries. A very interesting piece of

scenery being introduced, most of the persons in the box rose up; finding my view obstructed, I stepped on a vacant bench; a person soon after sat on my feet; I desired him to rise, which he did, without any appearance or expression of anger; I soon after stepped behind, where (except for eight or ten minutes) I remained during the performance, but I am positive I never sat beside Mr. Randolph during the evening. At the time of quitting the box I had hold of Captain Taylor's right arm; the crowd was great; at the box door Captain Taylor was jostled, and I put out my arm (but without any violence) to make room; Captain Taylor and myself then went out before Mr. Randolph and his friends. We walked down Chestnut to Fifth street, at which place I wished Major Christie good night, and he returned the compliment, and I am certain that I never mentioned Mr. Randolph's name during the evening, nor did I know Mr. Randolph was to be at the theatre, nor do I ever recollect seeing him previous to Friday evening, and, from his youthful appearance and dress, I had no idea of his being a member of the House of Representatives; and I trust it will not be supposed I would do an act that would be an infringement of the privileges of Congress, for whom I have the highest respect.

JAMES MCKNIGHT,
Captain of Marines.

Michael Reynolds's Statement.

PHILADELPHIA, Jan. 16, 1800.

On Friday evening, the 10th instant, Lieutenant Thomson and myself went to the theatre, and, after some time being seated, were joined by Captain McKnight; during the performance of *Blue Beard*, there appeared on the stage a number of strange figures, when some one of the gentlemen present made use of the expression that the ragamuffins would make a much better appearance; to which I replied, that could not be doubted; but as to my knowing of Mr. Randolph's being in the adjoining box, I did not, until I heard some one behind me mention it; and as to our having any previous conversation relative to our going to the play to insult him, or any other gentleman, it never entered my head; I went to the play-house in uniform and with my side-arms, and am confident that none of the other gentlemen in the box with us had either uniform or side-arms.

M. REYNOLDS, Jr.,
Lieut. Marines.

James Thompson's Statement.

On Friday, the 10th instant, Lieutenant Reynolds and myself attended the theatre, and, after being some time in the house, were joined by Captain McKnight; I neither knew nor expected to meet Mr. Randolph, although it so happened that we got into a box adjoining (without design) the one in which he, with other members of the House of Representatives, was seated; soon after Captain McKnight's coming over to us, which was not until long after our having been in the house, some remarks were made on the performance and performers, in which the words ragamuffins and mercenaries were used; although Captain McKnight was in the same box behind Mr. Randolph, yet I neither saw nor heard him address himself to that gentleman; and, while I was present, nothing like a personal insult appeared to me to be offered, unless his repeating the words above can be so construed.

JAMES THOMPSON,
Lieut. Marines.

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Questions by Captain McKnight.

Question. Did you see me seat myself by Mr. Randolph in the course of the evening?

Answer. I did not; but it might have happened without my observing it.

Q. Were we constantly together during the performance of the farce?

A. We were either in the adjoining boxes, or, it may be, for a little time, in the same box; but in full view of each other, and within speaking distance the whole time.

Q. Was I not in an undress and without any weapon that evening?

A. You were in an undress, and without any weapon which I knew of.

Q. Did you leave the theatre with Lieutenant Reynolds, and when?

A. I staid in the box, and Lieutenant Reynolds was with me there, after Mr. Randolph left it; and we came away together, and did not see Mr. Randolph after he left the box. Captain McKnight left the box before Mr. Randolph, and I did not see him afterwards that evening.

Q. Did you hear me mention Mr. Randolph's name that evening at the playhouse?

A. I did not, that I recollect.

Questions by the Committee. Did Captain McKnight use the expressions mentioned by you, of ragamuffins and mercenaries, or by whom were those expressions used?

Answer. I think by Captain McKnight. He asked Lieutenant Reynolds if he did not think the ragamuffins would perform better than those on the stage; alluding, as I understood, to a procession in the farce; to which Lieutenant Reynolds answered he thought they would.

Q. Did you know of any particular application those expressions were intended to have?

A. I do not know Captain McKnight's intention; nothing was ever said by him, or any other person, in my presence, of any intention of insulting Mr. Randolph or any other person.

Q. Did you hear any person say to Captain McKnight or Lieutenant Reynolds, he does not hear you, go nearer to him?

A. I did not.

Q. When did Captain McKnight leave the box where he first came to you, and in what manner?

A. I do not recollect whether Captain McKnight left that box before the conclusion of the play, but, in the interval between that and the farce, Captain McKnight, with several other gentlemen and myself, went together to a public house in the neighborhood of the playhouse and supped together, and on our return to the playhouse Captain McKnight went into the box where Mr. Randolph was, and remained there during the farce, or was there the most of the time.

Q. Did you see any person take hold of Mr. Randolph, or pull his coat?

A. I did not; but I heard Mr. Randolph, as he left the box, say that some person had taken him by the shoulder, evidently to insult him, or words to that effect.

Q. Have you any knowledge where Capt. McKnight was at the time Mr. Randolph made that observation?

A. At the time Mr. Randolph made the observation I have mentioned, Captain McKnight had left the box and was forward of Mr. Randolph.

Q. Did Captain McKnight, in going out of the box, pass Mr. Randolph, and in what manner?

A. We passed Mr. Randolph immediately before he

made the observation I have mentioned; but I did not see Captain McKnight touch Mr. Randolph.

JAMES THOMPSON,
Lieut. of Marines.

Sworn to, on the 17th of January, Anno Domini 1800, before me,

C. GOODRICH, *Chairman, &c.*

William W. Burrows's Affidavit.

PHILADELPHIA, Jan. 18, 1800.

I, WILLIAM W. BURROWS, do solemnly swear, on the Holy Evangelist of Almighty God, that I ordered Captain James McKnight to march on the 18th December last, with a detachment of marines, to guard some French prisoners to Fredericktown, in Maryland.

On Thursday, 9th January, at three o'clock in the afternoon, he arrived here, after a fatiguing march; and after reporting his arrival to me, he asked leave to go that evening to see his family, about eight miles from the city. He accordingly went, and returned about twelve o'clock, the next day, when he was immediately ordered to sit on a court-martial, which did not break up till near three o'clock. He then went to his dinner, and, as I have understood since, from thence to the theatre.

WILLIAM W. BURROWS,
Major Com'dt of the Marine Corps.

Sworn to on the 8th day of January, Anno Domini 1800, before me,

C. GOODRICH, *Chairman, &c.*

Jonathan H. Hurst's Deposition.

JONATHAN H. HURST, of the city of Philadelphia, maketh oath that, on the evening of the 10th instant, he was present at the theatre, and for some time in a box adjoining that in which was seated Mr. Randolph, member of the House of Representatives of the United States, from the State of Virginia; that he saw in the same box Captain McKnight, of the United States' Marine Corps, standing immediately behind Mr. Randolph; that he heard the chief part of the conversation which passed between Captain McKnight and several gentlemen who were near him during the performance of the opera or entertainment of Blue Beard; that he (J. H. Hurst) looked frequently to that part of the box where Captain McKnight stood; that he did not see any violence offered to Mr. Randolph by Captain McKnight, nor did he see Captain McKnight at any time crowd, jostle, or touch Mr. Randolph; nor did he (the said J. H. Hurst) hear Captain McKnight utter any word or words insulting or disrespectful to Mr. Randolph. And he further saith that Captain McKnight was not in uniform, nor was he armed, nor was there any visible or audible interference on the part of any person near Mr. Randolph to deter Captain McKnight or his acquaintance present from any apprehended ill treatment to Mr. Randolph.

JONATHAN H. HURST.

Question by the Committee. Did you hear Captain McKnight or Lieutenant Reynolds use the expressions "mercenaries, ragamuffins" and in what manner?

Answer. I heard Captain McKnight ask one of his acquaintance present, of whom I do not recollect, whether he thought that band, alluding to some of the performers in the farce then acting, as I understood it, could stand against our ragamuffins, alluding, as I understood, to the army of the United States. There was no pointed

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answer given, as I recollect, and the question appeared to me to be a matter of common conversation; and though at first I was not sensible of its being intended for Mr. Randolph, yet, looking upon him soon after, I thought he smiled as if he had heard it.

Question by Captain McKnight. Did you, in the course of the evening, hear me or Lieutenant Reynolds speak of Mr. Randolph, or mention his name?

Answer. I heard some gentlemen in the box speak of Mr. Randolph, as pointing him out to others, but I cannot say that this was to or by Captain McKnight or Lieutenant Reynolds.

JONATHAN H. HURST.

The foregoing deposition was sworn to on the 18th day of January, Anno Domini 1800.

C. GOODRICH, *Chairman, &c.**George Taylor's Deposition*

Some time during the performance on Friday evening, the 10th instant, at the theatre, I was called by Captain McKnight, to inform me of the marriage of an officer who had been on a detachment under his command, and from which he had that day returned. After some time we were joined by other persons, when a general conversation took place respecting the ragamuffins on the stage. There was a number of comparisons made, but they were general, and no names were mentioned. Of the persons in the box with myself there was but one in uniform, or with side-arms. In a part of Blue Beard, interesting as to scenery, the persons in the same box with me generally rose. I was on the right of Captain McKnight, and saw that those before him were taller than himself. It appears to me that he stepped on the seat before him to have a fair view of the scenery or stage. My attention was, for an instant, taken from the performance by hearing Captain McKnight say to some one, "Sir, you are sitting on my feet;" that person rose, and made a slight inclination of his head. Captain McKnight resumed his former situation, as did the one before him. After what is above related, Lieutenant Campbell Smith, from the door of the box, called me, and asked the name of an officer, then sitting in the box, the only one in uniform, except himself, there present, to whom I had never been introduced, or, to my knowledge, seen before that night. From my knowledge of Mr. Smith I did not feel myself disposed to satisfy his mere curiosity, or mention a name I had heard accidentally and scarcely recollected; I therefore asked him if he had any reason or particular object for knowing it. His reply was, that he saw a great many strange faces in uniform, and, wearing one himself, he wished to know the names of others who did. I then told him I would make him known to Captain McKnight, who would introduce him. Mr. Smith then used an expression which I considered as in nowise averse to the introduction of himself to Captain McKnight, which was done in the lobby. After some slight commonplace observations I saw no more of Lieutenant Smith. I had accepted an invitation from Captain McKnight to go home with him after the performance of the theatre. We were anxious to get out before the crowd from the upper part of the house would fill the lobby. To accomplish this, we passed a number of persons, one of whom, not known to me, caught my left arm; I took it for granted that it was to assist himself either to rise from the floor to the seat, or to prevent him from falling.

Captain McKnight had hold of my right arm. The tug I received from the left must have affected him, I

think; at any rate it separated us. I am inclined to believe Captain McKnight put his hand on the shoulder of some person and passed on. I did not overtake him until he was out of the box, when we, by his request, looked for some gentlemen to be of our party to his house, which we did, there and in the street, but could not find them.

GEORGE TAYLOR.

Question by Captain McKnight. During the performance of the farce, were we not so near each other, and to Lieutenant Reynolds, that if any violence had been offered by him or me to Mr. Randolph, you must have observed it?

Answer. I think I was near Captain McKnight and Lieutenant Reynolds the whole time, and must have observed any unusual conduct by them.

Questions by the Committee. Did you, in the evening in question, either before you went to the theatre, there, or at any time afterwards, know of any intention on the part of Captain McKnight or Lieutenant Reynolds to affront Mr. Randolph?

Answer. I did not.

Q. Did you observe Mr. Randolph at the time of your leaving the box, or hear any words from him respecting his being insulted?

A. I did not observe Mr. Randolph at that time, nor hear any words from him. Captain McKnight and I were going out of the box together, and I was separated from him by some person giving me a pull by the arm with some violence, but we joined again soon after in the lobby.

GEORGE TAYLOR.

Sworn to on the 18th day of January, Anno Domini 1800, before me.

C. GOODRICH, *Chairman, &c.*

The reading having been gone through with, the House adjourned.

TUESDAY, January 21.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act to repeal part of an act, entitled 'An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned,' with several amendments; to which they desire the concurrence of this House.

The said amendments were read, and ordered to be referred to the Committee of Revisal and Unfinished Business.

The House resolved itself into a Committee of the Whole on the bill to establish a uniform system of bankruptcy throughout the United States; and, after some time spent therein, the Committee rose and reported several amendments thereto, which were severally read.

The amendment to the ninth section, reported from the Committee of the Whole, being again read, was, on the question put thereupon, disagreed to by the House.

The other amendments reported by the Committee of the Whole were then again read, amended, and, on the question severally put thereupon, agreed to by the House.

The said bill was then further amended at the Clerk's table, and, together with the amendments,

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ordered to be engrossed, and read the third time on Monday next.

Ordered, That the petition of the Corporation of Rhode Island College, presented the thirty-first of December, one thousand seven hundred and ninety-two, with the report of the Committee of Claims thereon, made the eleventh of February, one thousand seven hundred and ninety-seven, be referred to the Committee of Claims.

A bill was received from the Senate for the relief of the legal representatives of Samuel Lapsley, which was read and referred to the Committee of Claims.

Mr. OTIS reported a bill to discharge Robert Sturgeon from his confinement, which was twice read and committed.

On motion it was

Ordered, That there be a call of the House on Monday next at two o'clock

WEDNESDAY, January 22.

SUSPENSION OF ADDITIONAL ARMY LAW.

The House resolved itself into a Committee of the Whole on the bill to suspend in part the act to augment the Army of the United States, and for other purposes; when, after several amendments having been made to the bill,

Mr. RANDOLPH proposed the following:

"Be it further enacted, That the men now enlisted under the said act, shall be formed into as many regiments as they are sufficient to complete; to be officered, at the discretion of the President of the United States, out of the officers of the said twelve regiments; and that the supernumerary officers, together with such officers of the general staff as in his opinion will not be necessary for the discipline of the said regiments, so to be formed as aforesaid, shall be discharged, and be entitled to receive, besides the allowance directed by law to be paid at their discharge, each one month's pay."

Mr. RANDOLPH said, his object in proposing this amendment to the bill was to consolidate the men already enlisted into as many regiments as they would make; and as there could be no use, but great expense, in maintaining the officers who remained, they might be discharged. He believed it would be generally conceded that the number of men now enlisted were not more than sufficient to fill six regiments, but the whole of the officers were appointed and on pay for the twelve regiments. As the recruiting would now be stopped, he was not disposed to see the public money squandered away unnecessarily.

If an invasion should happen there would be need of a much greater quantity than the whole, and then a number adequate to the exigency could be raised; without it, these officers would be useless. To keep up an army of officers without men to command, would be an expensive folly. He could have wished the whole force disbanded, but not being able to obtain that, it became his duty to endeavor to reduce it to the narrowest possible grounds.

Mr. RUTLEDGE said the bill upon the table was to him extremely disagreeable. Coming from that respectable quarter, the Committee of Defence,

and being supported by a number of his friends, he should have been content with giving a bare vote in opposition to it, had not this proposition come forward. He conceived it would be fatal to this country to recede from any one measure of defence. He wished this army to be filled up agreeably to the law as it stood originally, because he sincerely believed it highly probable that it would be wanted. But, in addition to a bill which in itself was receding from our original defence, an amendment more fatal still was proposed. Mr. R. believed it much more easy to get men than to get officers. Many gentlemen had made considerable sacrifices to serve the country, they abandoned profitable employments to get into the army; it would therefore be extremely wrong to discharge them before the object was completed for which their patriotism induced them to enter. He said his feelings should never overcome what he conceived the interests of his country required; but it could never require this paltry, pitiful economy. Indeed, he did not believe it true economy, because, if the men were wanted again, the officers would be indispensably necessary; and the recruiting would necessarily be much impeded if they were now discharged, because they would not be induced to engage again in the service.

Mr. R. believed the resources of this country were far beyond what gentlemen had represented in a late debate; he believed them fully adequate to the maintenance of any army whatever. In talking of our means, it had been insinuated that this was a permanent establishment. It was no such thing. It was an extraordinary army, raised for an extraordinary occasion, which occasion was not yet accomplished. Our children, who had been referred to, would never complain of the debt which was left them to pay, when they considered the occasion there was to incur that debt; they would rather regard the attention paid to the permanent interests of the country with gratitude.

The military art, Mr. R. observed, was a science; gentlemen of the army, if they were continued in their stations, could be acquiring a more competent knowledge in that science in this interim, and fit themselves for usefulness, when they were to be called to action.

As for the prejudice of the people to the army—though it was true that they were against the standing army, and it was possible they might be, in a little corner of a State, generally against all these kinds of preparations, but it was not so universally. He rather believed, in respect to the insults from France, that the sentiments of the public were far in advance of the Government—he knew it to be so in South Carolina; they thought the Government tardy, and therefore proceeded to measures of defence themselves, tired of waiting for the Government.

Mr. R. lamented that gentlemen, who had always expressed their desire for strong measures, should be prevailed upon to take steps which were receding from their former ones. If this were encouraged, the evil would not stop here; every measure of defence would be successively attacked by others, who readily caught at every opportu-

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nity. He believed this from the progress which was making towards it. These soldiers were to be disbanded; now the officers were to be discharged; besides this, there was a motion lying on the table to recede from another measure of defence (the Sedition bill;) next it would be moved to stop the building of the seventy-fours; and when or where would it end, until the total subversion of the whole? If this kind of proceeding was encouraged, it would be impossible to say to what a state of prostration our nation would be brought. He therefore thought his duty called upon him to vote against every innovation upon the system, until the occasion was removed.

Mr. PLATT said he had voted against the late resolution to disband the army; the reasons which were urged against that motion made a strong impression on his mind, and, although nearly a week had elapsed, he still retained that impression. It was unnecessary to recapitulate those arguments, he would only observe that the whole course of reasoning against the former resolution appeared to him to apply with at least equal force against the present measure. A very considerable expense would have been saved by disbanding the army, and in that point of view alone, the inducement to that measure was strong; but it was contended on very good grounds, he believed, that it would indicate a want of union and stability in our councils, which at this particular crisis it was so important to maintain. It appeared to him that the suspension of enlistments by a law of Congress was in effect the same thing in that point of view, as a law to disband the army—it discovered the same relaxation of spirit, and indicated the same fluctuating policy. And what was the inducement to this measure? The small additional expense of the few soldiers who may be enlisted for the three months to come. This, he said, appeared to him to be a pitiful saving indeed; and such as would not justify the Government in abandoning that system of measures which had hitherto been so successful, and which had made so strong and so favorable an impression on one enemy. We shall probably know the result of the pending negotiation within three months. If peace and security shall be restored, the army in question would cease with the law which created it, and if a third attempt to negotiate shall fail of success, who is prepared to say that the whole twelve regiments will not be necessary? There was one point of view in which this subject was not before considered. The President of the United States had informed them that, in his judgment, sound policy dictated the renewal of negotiation with France, but that in order to give effect to that negotiation, our whole system of defensive measures ought to be firmly maintained. In our answer to his Speech we explicitly approve of the conduct and views of the President with regard to the mission, and we concur with him in opinion that no relaxation ought to be made in defensive measures; he therefore thought they owed it to the Executive, they stood pledged, to maintain the ground on which the negotiation was commenced. They were bound to afford every advantage in their power to enable

the President to bring the negotiation to a favorable conclusion. But, by adopting the measure they certainly did relinquish a part of the ground on which the President had founded his measures. Instead of seconding the efforts of the President, the present measure would counteract the exertions of the Executive arm; and by pursuing this course, said he, we shall assume the responsibility of a measure which must certainly be attended with very important consequences to this country. I think, sir, we ought to allow a fair trial to the negotiation under all possible advantages, and to leave the high responsibility of that measure where it now rests.

Mr. HARTLEY said he did entertain a hope that this bill would have passed pretty unanimously, and he was therefore sorry to see any attempts made towards its destruction. The gentleman who had proposed the section had evinced his perfect aversion to any Military Establishment whatever—he did not wish to have a single officer or soldier—but Mr. H. hoped his attempts towards it would fail, for though he liked the bill, he disliked the amendment.

These officers were now at their posts; they have been selected with the best aid our Executive could have—such as could not be had again—the aid of the wise WASHINGTON; if they were dismissed, they would many of them refuse to return if called for, and a new, but less complete selection must be made. This would make the measure an essential injury to the country.

Mr. H. said he wished our citizens no more to be disturbed with the unnecessary noise of the drum, and therefore he hoped that recruiting would be suspended, but at present he thought it would be very improper to discharge the officers. On this account he should vote against the proposed section, but in favor of this bill without it.

Mr. COOPER professed himself against the amendment as well as against the whole bill. He was convinced that the prosperity of the United States was intimately connected with this army, and it must be a weakness in the Government to relax any part till the object was obtained. If the object was not obtained, how unwise, how undignified, would this measure then appear; and, thus uncertain, how ill-timed was this relaxing system proposed. It was not wisdom to do to-day what must be undone to-morrow. The gentlemen who had proposed this defensive system, and procured its establishment, in his opinion, were pulling down what they once with so much wisdom reared, by introducing the bill at all.

Mr. C. went into the former debate of the House on the motion for disbanding the army; he considered it an inconsistency in the conduct of gentlemen who opposed that motion to propose this bill.

Mr. OTIS vindicated himself from the inconsistency charged. As for himself, he said, he was only the humble organ of the Committee of Defence, for whom he reported the bill. But, however, it was his opinion that the bill was proper. As to the amendment he opposed it. The question the other day was to disband the army. That was

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negated. Now the motion is to disband a part of it—the officers. If the officers were to be sent home and the staff pulled down and annihilated, he conceived it would be equivalent to disbanding two-thirds of the whole army, because the recruiting could not go on as soon as it probably might be wanted. There was no argument, in his opinion, which was used against disbanding the whole army, that could not with equal propriety be applicable to the present motion. He therefore hoped the dignity of the House would not be so impaired, as it must be by enlarging the discussion of the present motion, but that the question would be taken immediately.

Mr. HARPER opposed the proposition because of the considerable delay such a motion must make if the necessity should return for raising this army. A new selection of officers must be made, for he presumed very few of those discharged would serve again. It was true there were plenty of applications for commissions, but a long time would be necessary to procure the information necessary to make a wise selection. He did not think it an economical measure, for the delay and expense which would accrue in making the arrangements would equal the pay of the officers for the short time they would probably be now in the service.

Mr. MACON could not agree with the gentleman (Mr. RUTLEDGE) that officers were hard to be had; during the war there were plenty of able officers to be obtained. Indeed the report of the Secretary of War confirmed the truth of this opinion; there was not a single regiment complete in men, but the whole of the officers were appointed. It was an unnecessary use of money. It had been said to be a small expense. That argument could not warrant the ill use of it. "Take care of the pence, the pounds will take care of themselves," was an old but true adage. Therefore, no saving whatever was "pitiful," or "paltry."

The gentleman from South Carolina (Mr. RUTLEDGE) had said it was not a standing army. Mr. MACON did not know what then to call it. It must be a militia army or a regular army; the word regular, applied to the army, had always been considered synonymous with a standing army. They certainly could not be called militia; then they must be regulars—a standing army.

The President, in his opening Address to the House, had given advice that the House ought to examine and see where any saving could be made; no doubt he meant to examine into every item of the expenditure. If only the pay of one officer could be saved it would be prudent to do it. He liked the amendment for the principle of it, because it went to lessen the public expenditure; and having failed in the attempt to get the men disbanded, he considered it his duty to come the nearest possible to it, and vote for discharging the supernumerary officers. As the enlistments were to be stopped, the officers could be of no use: then why not discharge them?

It had been supposed that these patriotic officers would not return to the service, if this dismissal took place, but new ones must be sought. Mr. MACON had no doubt but the same patriotism which

brought them out on a certain occasion, would induce them to return to their homes if the Government had no more need of their services, and that they would as cheerfully return to the service, if there ever should be occasion for them; or their patriotism would be very mutable indeed, and unworthy their profession.

Mr. BAYARD conceived that a right view of this subject must convince the House that it would be a real saving to keep the officers. From the report of the Secretary of War it would appear that the army referred to were at present stationed at great distances, one part from the other. Agreeably to the report of the Secretary of War it appeared that these twelve regiments (or what were enlisted of them) were stationed in the following manner: Three regiments in the vicinity of Providence river, near Uxbridge, Massachusetts; three regiments in the vicinity of Brunswick, New Jersey; three regiments in the vicinity of Potomac, near Harper's Ferry, Virginia; three regiments in the vicinity of Augusta, above the Falls of Savannah.

Were this amendment to pass, said Mr. B., it would become the duty of the Executive to take immediate steps to order their removal from their present positions, in order to form them into complete regiments. The expense of removing from their present cantonments, marching, forage, &c., must be very considerable. Again: If the officers were to be reduced, could it be done in a minute? How is the Executive to determine who were the officers to discharge, and who to retain? If they were to draw lots, it must take considerable time—three or four months would not be sufficient. But, on the other hand, it was possible that the negotiation might be successful in one month, and if so, they would then be discharged by the law upon the bare wages due to them for the time they served. But the amendment was calculated to give them a month's pay. Surely, from these considerations, it would be an eventual saving to keep them until the success of the negotiation is known. But suppose peace was not made with France, would it be prudent in that event to discharge them? Mr. B., conceived not, for he had no doubt but they would then think of invading this country, and having that apprehension, he should be sorry to see the country unprotected; for surely retaining these officers would much facilitate enlistments, if they should be required to go on.

Mr. CLAIBORNE said, that the enemies to the bill would no doubt be opposed to the amendment, but he could see no good reason why it should be exceptionable to other gentlemen. If there exists no necessity for calling into service a greater number of men than are already enlisted, surely there can be no propriety in retaining in pay a greater number of officers than are necessary to command.

Notwithstanding the remarks of the gentleman from Delaware, Mr. C. was of opinion that economy dictated the adoption of the amendment. He knew of no great additional expense which would attend the removing and concentrating of this army, other than the transportation of the baggage,

nor did he suppose that any length of time would elapse before the President could act under this law. If, in the mean time, a treaty should be concluded, the army would be disbanded of course, and the law could have no operation. But if the negotiation fails, and no danger of invasion exists, the amendment would free the people of the United States from a great and unnecessary expense.

It had been said, that the officers should be retained in service, since the military art was a science of great intricacy, and difficult to be acquired. Mr. C. was of opinion, that the knowledge of war was principally to be acquired in war; that, so far as relates to the theory necessary to aid the practical officer, we had a number of characters already in the study of it—he alluded to the officers of the militia—and, from among them, suitable persons may be chosen to take command in a regular army in time of danger.

It had also been urged, that if the officers should resign or be discharged, and the exigencies of the nation should shortly require their services, it might be attended with delay and trouble to obtain suitable successors. Mr. C. apprehended no such difficulties; heretofore they had not been experienced; our fellow-citizens had on all occasions manifested a disposition to accept of command in our armies. At this time the Secretary of War, no doubt, possessed a long list of respectable applicants, and their characters were always portrayed by their friends when they applied for appointment. It could not therefore be difficult or tedious to make a good selection, where the necessary "materials" were continually in possession of the proper department.

Mr. MARSHALL said, this was precisely the same question as had taken up so much time in the House, and had been maturely discussed, and on which a majority of the House had expressed an opinion by rejecting the motion to disband the army. He would call the attention of the House to the particular principle upon which that decision was grounded. It was this: The state of the country at the present moment was such as to leave it absolutely uncertain whether the twelve regiments would or would not be necessary for our defence, but that the period would soon arrive when that uncertainty would be removed. On these grounds, it was the determination of the House not to recede from any measure they had ordered, nor to progress, and agreeably to that principle a bill was reported to suspend the enlistments.

Mr. M. called to the recollection of the House some of the arguments which were used against the motion to disband the army, and applied them to the present amendment. A large majority, he said, then decided in favor of maintaining exactly the same ground as at present, and he presumed no circumstance had appeared to change the opinions of the House on that point. The adoption of the motion would certainly very materially derange the system. Gentlemen supposed the President could re-create the officers. He could not do it without the law should have been fully executed, and nothing should remain to do in it; the Execu-

tive could not therefore create an officer. Besides, there would be a great inconsistency; the bill pointed to an event when recruiting must recommence, but the amendment removed that power, by taking away the officers who were to execute that service, besides leaving the men recruited (if it were possible) without officers! Thus, though the time was appointed, the means were taken away, until at a future meeting of Congress an act should be passed to enable him to appoint officers.

If the number of men were never to be increased, then indeed the arguments in favor of discharging the officers would be unanswerable, but in the prospect of such an event as an increase, those arguments must fail. It was, and with propriety, thought prudent to retain the skeleton of an army to enable the President, in case of invasion, or actual war, to recommence the recruiting service.

It was observed that the same patriotism which called forth the spirit of our citizens to accept of commissions, would excite them again to enter the service. Mr. M. believed it to be a fact; he believed they would again enter the service if required. No doubt but they did estimate love of country sufficient to obey the orders of their country, at any time, or in any way; but would it be right and proper to call gentlemen from their occupations and families, and dismiss them before the service was performed in which their patriotism called them out, merely because their zeal could be depended on? He hoped the national spirit would never yield to that false policy. He hoped the now existing station would be maintained, and no measure at present be receded from on which the country had placed their confidence for defence.

Mr. NICHOLAS did not think, with gentlemen who had spoken against the present amendment, that the same reasons which were used in opposition to the other motion, were also applicable to the present one. If he understood the arguments of gentlemen at that time, they concurred in this: that they would not give up the effective defence in their hands, until the extinguishment of the danger, to provide against which they were established. But what would be the operation of the present motion if adopted?

The House had determined that no more men should be raised, even if the negotiation with France should fail, unless the failure was followed by actual war or threatened invasion; if, therefore, the present motion was rejected, there would be three times the number of officers in the pay of the country, and they must, in case the negotiation fail, remain until the next session of Congress—at least necessary for the men. How would this contribute to the strength of the country, or how to another object gentlemen had mentioned, military discipline? These men would always be at their homes, and acquire habits not useful either to themselves or the country.

It was said that if discharged before the accomplishment of the services for which their patriotism brought them away from their homes, they would be unwilling to return when wanted, and that, when the necessity was most urgent, there would be great delay in procuring others. The

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gentleman who used this argument had answered it by telling you that the War Department has made provision for officering an eventual army of 50,000 men. If so, it could be no difficulty to procure officers at any time. If these officers might not all find it convenient to return, others could be appointed without any trouble or delay, whenever it might be necessary to augment the army.

It is well known that a much more numerous class of citizens were willing to go into the eventual army, (as it is called,) provided for time of real danger, than into the one now under consideration; therefore, the probability would be in favor of a better selection, for there would be a larger field to choose from. Again: most of the officers had most likely tried their efforts at enlistment. Was it not probable that new officers would be likely to draw into the service men who might be particularly attached to them, but who else would not have entered? If these were sound arguments, the article of expense was not the consideration, but the actual power of the country would still be increased in the event of danger.

The gentleman from Delaware, Mr. N. said, used an argument which appeared to him extremely weak. He had said the amendment now proposed would probably be more expensive than the law as it now stands, for in all likelihood the army will be disbanded by the terms of its enlistments before this law could be executed. How this was to be, he could not conceive. If the occasion for this army should cease before the dismissal of the officers, they would be dismissed under the original law; if it should not, this measure could not increase the expense.

Another objection, and one which was relied upon, was, that it would be out of the power of the President to re-appoint the officers, even if he should find occasion to order the enlistments to go on. To this objection it might be answered that the old law would still remain in force, and the same power which could direct the enlistments to be made could appoint the officers. Regiments of men were always accompanied with a suitable number of officers, and therefore if the President was empowered from the existence of certain circumstances to raise so many regiments, he was equally empowered to appoint a certain number of officers to command them. Suppose a vacancy happened in the army, the President always had the power to fill it; by the same rule could these appointments take place. But if any gentleman should think the construction of the law would be mistaken in that particular, he might amend it so as to make its operation certain.

Gentlemen appeared to suppose a kind of necessity existed to keep these officers, because their patriotism had called them out. The original contract by which they were brought into the service did not bind the country to keep them longer than the exigencies of the times required; they had therefore no claim upon the country, and it was not consistent with that professed patriotism to wish to stay in the service a moment longer than they could be serviceable. Mr. N. admitted that they would be under no obligation to return.

Upon the whole, as officers could be of no use to the country without men, and as it would always be easy to procure officers when it might be necessary to raise men, Mr. N. sincerely hoped the amendment would be adopted.

Mr. GALLATIN did not conceive it would be necessary to remove the regiments from where they now are, and consequently no new expense would be incurred by consolidating the men already raised into regiments. Suppose they would make four regiments complete; as he supposed they were now nearly equally divided in four different stations, each of them could have one regiment, and if any companies remained as a surplus, they could stay where they now are. Thus the supposed expense of removal would be saved. It was also thought that three or four months would be necessary to execute this measure. Mr. G. thought it might be done in two or three weeks, by the mode above proposed. If this could be done, of which he had no doubt, these objections must fail.

If this amendment did not obtain, a number of officers, three times more than was requisite, would be detained in pay, for a considerable length of time, without any service for them to perform. The officers perhaps were the most expensive part of the establishment, and if that could be saved, it would certainly be an object meriting attention; it would be a duty incumbent on the House to dispense with the expense.

Some gentlemen had said, if this measure was adopted it would be a dereliction of the defensive system, and that the arguments used the other day were sufficient to oppose this measure as well as that for disbanding the army already raised. Certainly it was not so—although it was conformable to the same principle, and on that account he approved of it. Mr. G. acknowledged himself to be against the whole establishment, and the more it was reduced, the more he should be gratified; but he trusted it would not be thought that this was the same question which was negatived the other day. This was rather a middle ground, and such a one as he hoped gentlemen who professed to desire a medium would approve of.

This was not a question which had already been decided. If it was proper that the establishment should be so far reduced as to prevent the completion of the twelve regiments ordered by the act, a bill founded on that position ought to include a principle like the one now proposed, or it would not be complete in itself. If gentlemen would review the arguments on which the former motion was opposed, it would be evident that they did not apply to the amendment now before the House. Among other arguments against disbanding the army, a principal one was, its effect on the negotiation. Surely the reduction of the officers could not be opposed on that ground, even when added to the other part of the bill for preventing farther enlistments, because another argument then used would not even affect it—that of receding from our defensive position. The present situation was maintained the same by this bill; it was not thought prudent to progress, but no part of this bill can be construed to be receding.

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Mr. G. did not think the measure would have any injurious effects, by preventing officers being procured when wanted. As many of these gentlemen, he believed, entered the army from the love of their pay as from the love of their country, and, between both, there never could be a deficiency of officers. He thought it perfectly easy for the Secretary of War to learn the individual circumstances of every gentleman in the army, so that none might be injured by the discharge, if a proper selection was made.

He did not know whether the construction put in the power of the President to appoint officers, if there should be occasion for the men, by the gentleman from Virginia, (Mr. MARSHALL,) was correct or not; but Mr. G. said he knew one thing—that if it was necessary, and a doubt existed upon it, an amendment could be made to the bill to remove that doubt, and therefore that was no objection to the motion now under consideration. From the return, it would appear that at present there was about one officer to seven non-commissioned officers and privates, upon the average. From this estimate it must appear that great numbers of these supernumeraries were useless, and if useless they ought not to be kept, especially since their places could be filled at any period when it might become necessary, and as they could have no claim beyond the period when their services became useful.

Mr. SMITH said, when the subject was before the House a few days past, some gentleman talked about a middle ground; he then thought one might be taken, he thought that the supernumerary officers might be sent home on furloughs; but, on farther reflection, he perceived that measure would be attended with considerable inconvenience, and but little convenience or saving. He thought it was best to let them remain at present with the army. He had obtained information from the proper officers, and learnt that by the middle of February some answer would most probably be received from France respecting the prospect of our negotiation. It would therefore be advisable to wait that issue. Mr. S. said, he recollected that, in the Revolutionary war, it took two months before the supernumerary officers got to their corps after they were called for; and as this must be attended with difficulty in urgent circumstances, it ought to be avoided, even at a trifling expense, for trifling it would be, should they afterwards be called upon.

The gentleman last up had not talked like a military man when he proposed the regiments should be concentrated at their several posts. This could not be done, but the trouble and expense of marching (which was very considerable) must occur if the motion were to pass. He feared if this amendment was introduced it would be worse than economy; he feared that a majority of the House would reject the bill, and he should regret that event, and on that account he was sorry the section was ever proposed.

Mr. RANDOLPH declared, that had it been his opinion the amendment would endanger the bill, he should not have offered it, or he would even

now withdraw it. He professed himself a friend to the bill in its present shape, and if he could not get it amended in such a manner as to his ideas would be right, he would vote for it without; but he hoped gentlemen would see the amendment as proper, he was sure it would be found a saving measure. In the event of invasion (which gentlemen must mean when they talk about wanting these officers) will not the United States require these, and *more*? Nothing can be more clear. Then, certainly, while the selection would be making for others, it could also be for these.

It did not surprise him, Mr. R. said, that gentlemen who were inimical to the bill should also be opposed to the amendment; but it did surprise him that the friends of the bill were, because it appeared to him to be a part of the same measure. If the amendment was not to pass, there would be more officers than could be necessary for organizing the army. If the period should arrive and events occur by which they ought to be discharged, agreeably to the former bill, prior to this consolidation, they could as well be immediately discharged as though this provision had not been introduced, because there could be no more occasion for them, and therefore it was impossible this section could increase the expense.

Mr. HARPER said, there had been a mistaken opinion suggested—that the Executive had a considerable number of applications, and therefore could easily appoint any additional number of officers. That there were numerous applications was true, but the Secretary of War only made it his business to inquire respecting those gentlemen who were actually appointed; therefore, if new appointments were to be made, new inquiries must be entered into, as to character and a variety of circumstances necessary to make a judicious appointment. This must necessarily be, when it was considered that these appointments might precede the enlistments, which the peremptory necessity of the circumstances ought to hasten as much as possible. Mr. H. could not see the ground of the gentleman's surprise who was last up. A man might be willing to do something—he might be willing to go a mile, but might not wish to go four or five. But this appeared to surprise the honorable gentleman.

Mr. JONES said, he thought the other day that the twelve regiments were unnecessary, and therefore voted that they might be disbanded; he thought for the same reasons that the supernumerary officers were unnecessary, and that to discharge them would be a saving to the United States, which was a circumstance every gentleman ought to look to and endeavor to effect. His suspicions, he said, were more founded by the conduct and declarations of gentlemen who were generally hostile to measures which they supposed would cramp the Government. He feared the other day that these men were rather attached to a standing force than raised for a particular occasion. They were admitted not to be the provisional army—what were they then?—let gentlemen answer. It was farther stated to be necessary to keep up a regular force in order that the officers should acquire the

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art of war. How, by this establishment, would gentlemen expect this point could be effected? In some regiments there were not more than twenty or thirty men. What knowledge of military tactics or discipline could be acquired by exercising this very small number? There were more officers than men. He feared these were not the true reasons why the officers were preserved. There could be no want of them; no good could accrue from keeping them in pay, but much harm might. He therefore hoped the amendment would prevail.

Mr. SMILIE never apprehended invasion, but if such a thing was to occur, what effect would these officers have? He thought a good answer had been given to that question. As to the effect of this measure on the negotiation, it was folly to talk about it. Would the French be terrified from the attempt on account of these officers? Surely such an idea must be absurd, and yet the arguments of gentlemen went that length. He hoped the amendment and the bill would pass.

On the question the amendment was negatived.

The Committee then rose, reported the amendment to the House, and on motion the House adjourned.

THURSDAY, January 23.

Mr. GRISWOLD, from the Committee of Revision and Unfinished Business, to whom were referred the amendments proposed by the Senate to the bill, entitled "An act to repeal part of an act, entitled 'An act to mitigate or remit the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned,'" made a report; which was read, and ordered to lie on the table.

SUSPENSION OF ADDITIONAL ARMY LAW.

The House proceeded to consider the amendment reported, yesterday, from the Committee of the Whole, to whom was committed the bill to suspend part of the act, entitled "An act to augment the Army of the United States, and for other purposes;" and the same being read, Mr. PLATT proposed a resolution that a further consideration of the bill should be postponed till the first Monday in December next.

Mr. BIRD wished to give his reasons for his vote on the present occasion, as he should probably be in the minority. When the motion for disbanding the army was before the House some days since, he did not rise, because the same principles which he maintained were supported with such great ability by several other gentlemen. But the same reasons which dictated his vote on that question, Mr. B. thought, would operate in favor of the present motion. He recapitulated some of the principal ideas advanced on the former occasion, particularly on the necessity of maintaining our defensive position, for which he thought there was as much occasion as ever. Having voted against that resolution, he thought it also consistent to vote against this bill, in whatever shape it came forward. There were certain cases in which not to go forward would be to go backward; this was one—here, not to do, was to undo. If a man under-

took to build a house, and having carried it up to the roof, he was not to finish it, but let it remain in that state, it would be an evident display of his inability to complete it or of his folly in commencing the building. One or the other impressions would naturally strike the observer. So in respect to the army. It certainly was a feature of the national spirit; it certainly was a means of defence which was determined on by the national councils. To arrest its completion before the ground of its commencement was removed, must prove to observant France either imbecility or folly. And was it to be supposed she would make no use of it? She certainly would never so far depart from her usual policy. As he should be opposed to the bill in every shape, he should vote for the postponement.

Mr. HUGER said, though he agreed that the situation of the country did not authorize a reduction of the means of defence which were wisely ordered, yet he conceived there were good reasons why the present motion ought to be adopted. He did not believe that defensive measures had been or would be useless. He thought nothing more clear, than that the crisis of affairs was not so serious as it had been, and this he thought entirely owing to our defensive measures; their benefits had been received, but he wished not, on mere assurances of friendship, to recede from what he had done. What, he asked, had France done? She had done nothing which ought to produce a change in our measures, and therefore he voted against disbanding the army. She had to be sure wafted across the Atlantic a few fine soft words. Whatever their views, whether sincere or not, Mr. H. said, he would meet every proffer for accommodation, and therefore he approved highly of the measures taken by the Executive in sending Envoys. That amicable disposition ought to be seconded, by not increasing our means of defence. He could not be of the opinion with some gentleman, that it was the same thing to lay on our oars and remain *statu quo*, as to recede. He did not believe it was like a man, with his shield half raised and his club grasped, who on the first offer of accommodation from his adversary lays down his weapon and his shield, and meets the proffered, though it might prove deceitful, proposition unarmed. No, it was rather like the man who would still keep himself prepared, his shield still ready to avert the blow, though no less willing to meet amicable propositions. This, he believed, was what was desired by the Committee of Defence.

By preventing farther enlistments, the country would not be in a worse situation than at present. But by disbanding the army, or by discharging the officers, which he considered of the same nature, it would put the country in a worse situation, because it would prevent the means of progressing if there should be occasion. You show France and the world that you are willing to do anything you can towards peace and unanimity, but you will not trust to words; that while you hope for the best, you will remain prepared for the worst. It struck him, Mr. H. said, that there was something very amicable and conciliatory in this bill, and he

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therefore should vote for it, and against the proposition for its postponement.

Mr. NICHOLAS called the yeas and nays upon the question, which were agreed to be taken, and were—yeas 10, nays 82, as follows:

YEAS—George Baer, John Bird, John Brown, Christopher G. Champlin, William Cooper, William Gordon, Jonas Platt, John Rutledge, jr., James Sheafe, and Peleg Wadsworth.

NAYS—Willis Alston, Theodorus Bailey, Bailey Bartlett, James A. Bayard, Phanuel Bishop, Jonathan Brace, Robert Brown, Samuel J. Cabell, Gabriel Christie, William Charles Cole Claiborne, John Condit, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, Thomas T. Davis, John Dawson, John Dennis, George Dent, Joseph Dickson, William Edmond, Joseph Eggleston, Lucas Elmendorf, Thomas Evans, Abiel Foster, John Fowler, Jonathan Freeman, Albert Gallatin, Henry Glen, Samuel Goode, Chauncey Goodrich, Elizur Goodrich, Edwin Gray, Andrew Gregg, Roger Griswold, John A. Hanna, Robert Goodloe Harper, Thomas Hartley, Joseph Heister, William H. Hill, David Holmes, Benjamin Huger, Jas. H. Inlay, George Jackson, James Jones, Aaron Kitchell, John Wilkes Kittera, Henry Lee, Silas Lee, Michael Leib, Samuel Lyman, James Linn, Nathaniel Macon, John Marshall, Lewis R. Morris, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, Abraham Nott, Harrison G. Otis, Robert Page, Josiah Parker, Leven Powell, John Randolph, John Reed, Samuel Sewall, William Shepard, John Smilie, Samuel Smith, Richard Stanford, Thomas Sumter, Benjamin Taliaferro, George Thatcher, John Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Robert Williams, Lemuel Williams, and Henry Woods.

The said amendments were then again read, and, on the question severally put thereupon, agreed to by the House.

A motion was then made and seconded further to amend the said bill, by adding the following as a new section:

"Be it further enacted, That the men now enlisted under the said act, shall be formed into as many regiments as they are sufficient to complete; to be officered, at the discretion of the President of the United States, out of the officers of the said twelve regiments; and that the supernumerary officers, together with such officers of the general staff, as, in his opinion, will not be necessary for the discipline of the said regiments, so to be formed as aforesaid, shall be discharged, and be entitled to receive, besides the allowance directed by law to be paid at their discharge, each one month's pay."

And, the question being taken that the House do agree to the same, it passed in the negative—yeas 38, nays 57, as follows.

YEAS—Theodorus Bailey, Phanuel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, William C. C. Claiborne, John Condit, Thomas T. Davis, John Dawson, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Gallatin, Samuel Goode, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, George Jackson, James Jones, Aaron Kitchell, Michael Leib, James Linn, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, John Randolph, John Smilie, Richard Stanford, Thomas Sumter, John Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, and Robert Williams.

NAYS—Willis Alston, George Baer, Bailey Bartlett, James A. Bayard, John Bird, Jonathan Brace, John Brown, Christopher G. Champlin, William Cooper, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, George Dent, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, William Gordon, Edwin Gray, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, William H. Hill, Benjamin Huger, James H. Inlay, John W. Kittera, Henry Lee, Silas Lee, Samuel Lyman, John Marshall, Lewis R. Morris, Abraham Nott, Harrison G. Otis, Robert Page, Josiah Parker, Jonas Platt, Leven Powell, John Reed, John Rutledge, jr., Samuel Sewall, James Sheafe, William Shepard, Samuel Smith, Benjamin Taliaferro, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

The said bill was then further amended at the Clerk's table, and ordered to be engrossed, and read the third time to-morrow.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

I transmit to Congress, for the information of the members, a report of the Secretary of State, of the ninth instant; a letter from Matthew Clarkson, Esq. to him, of the second; and a list of claims adjusted by the Commissioners, under the twenty-first article of our treaty with Spain.

JOHN ADAMS.

UNITED STATES, Jan. 23, 1800.

The said Message, and papers accompanying the same, were read, and ordered to lie on the table.

THE SEDITION LAW.

Mr. MACON submitted the following resolution:

Resolved, That the second section of the act, passed the fourteenth of July, one thousand seven hundred and ninety-eight, entitled "An act in addition to the act, entitled 'An act for the punishment of certain crimes against the United States,'" ought to be repealed; and the offences therein specified shall remain punishable as at common law. Provided, that, upon any prosecution, it shall be lawful for the defendant to give in evidence, in his defence, the truth of the matter charged as a libel.

Mr. MACON said, though he was well convinced that the subject had been so fully discussed, both in this House in former sessions and elsewhere, that it would be impossible to add anything new, yet he thought it incumbent on him to offer his reasons for bringing the resolution before the House, which he would do in a few words.

He was so well convinced that no power was delegated by the Constitution of the United States to the Legislature to pass such a law, that the duty he owed his constituents, as well as his own opinion, impelled him, to make the motion to repeal the section at the present session. When the Constitution was before the State Conventions that adopted it, almost all the members who were in favor of it, in the States where the debates have been published, declared explicitly, that no power was granted to Congress whereby they could pass any law abridging the liberty of the press; those who were not in favor of the adoption at that time,

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thought it possible, some future day, Congress might assume the power by implication, and therefore it is that the conventions of the States generally recommended that an amendment should be made to the Constitution, declaring that no power over the press was granted to Congress by the Constitution. And the first Congress under the Constitution, in conformity to the wishes of their constituents, proposed several amendments to the Constitution, among them is one in the following words: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." When this article was under consideration, it appears, by the debates which have been printed, that some of the then members of Congress thought it useless, because as no power was delegated on the subject, they could not then pass any law on any of the subjects mentioned in the article. This article, with others that will be read, has been ratified by the States and made a part of the Constitution, and removed all the doubts as to the power of Congress to pass any law on the subject of the press. If Congress can constitutionally pass the law now in question, can they not also pass a law to abridge the freedom of speech, to prevent the people from peaceably assembling to petition for a redress of grievances, and by the same arguments make an establishment of religion? But what means the freedom of the press? It must mean that, as there was no law existing to abridge it, that Congress should not thereafter pass one, and that it should remain exactly as the Government found it. But in order to make it more clear if possible, and to give more perfect satisfaction to the people, another amendment was introduced in the following words: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people." Mr. M. said he conceived this clause was introduced to prevent any power being assumed by implication, and consequently that Congress have no power to pass any law, unless that power be specially granted, or absolutely necessary to carry a delegated power into effect. Again, the 11th amendment has these words—"The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people." From these clauses it appears quite clear that the law is a violation of the Constitution; if, however, it should be contended that the power to pass the law is delegated, or that it is necessary to carry any delegated power into execution, he hoped the gentlemen would put their finger on that part of the Constitution in which the power was granted; but he conceived that this could not be done now, no more than formerly, because no such clause was in the Constitution.

Mr. M. said it was not only fair, but perfectly consistent, with the Constitution, that every act of Government might be discussed either in the public prints or elsewhere, by any citizen; and

what other means than the press could the people employ to disseminate their opinions, or of knowing the opinions of others? Besides all this, the law must have a very bad effect on our system of Government, if we mean to keep it pure by elections; if elections are to be free, the people ought to have the liberty of freely investigating the character, conduct, and ability of each candidate to fill any place of public trust whatever, and this cannot be done as long as the present law continues in force.

It has been said formerly on this floor, and perhaps it would now be made an objection to the motion, that there was a great difference between the liberty of the press and the abuse of the press. This may be true; but as no line of distinction has ever been drawn, so that we may know where the liberty of the press ends and the abuse begins, we may fairly conclude that it is impossible to draw the line. But if a line could be drawn, it would be of no consequence to us, because we are prohibited from legislating on the subject of the press by the Constitution. The press is amongst the best gifts bestowed on man, its benefits are incalculable, and if we had the power to touch it, prudence would dictate to us to do it with great caution; and here permit me to repeat, that we have no power over it, given by the Constitution of the United States.

A considerable argument in favor of the liberty of the press, if there was a necessity for one, might be derived from the old saying, that truth will always prevail. This Mr. M. said he firmly believed, and could not discover any reason for preventing a free investigation of all public acts; and if there are those in the country who hold different opinions, they ought to have the same means of supporting their opinions.

Another proof may be derived from the Constitution in favor of the opinion that the law is unconstitutional, it is that part which declares that the President and other officers may be impeached. This also shows the propriety of examining into the conduct of all officers, because it supposes that some one of them may commit a crime for which he ought to be impeached and punished. And if at any time, any officer liable to be impeached, should be guilty of malpractice in office, what so ready a way to make the discovery as a free and public investigation of his conduct? And yet the liberty to make this examination is considerably curtailed by the law, for in doing this it is more than probable that the hatred of the good people of the United States will be excited against such officer. Mr. M. said he hoped there never would be cause for anything of the kind, yet that was no reason why the means of making a discovery, in case it should happen, ought to be unlawful.

Mr. M. said he would not take up the time of the House any longer, and on these grounds would submit the subject to their decision, with the hope that the section would be repealed.

Mr. BAYARD, said he could not question the purity of the motives which induced the gentleman from North Carolina to introduce the reso-

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lution on the table, but it was difficult to discover a sufficient object for the renewal of a subject which had heretofore been so fully discussed and so often decided. The House would remember that the law which the resolution proposed to repeal, would expire by its own limitation on the 3d of March 1801; and judging from its past effects there was certainly nothing to dread from its continuance another year.

Mr. B. said he was not one of those who had ever had any scruples as to the constitutionality of the law or who ever felt alarm as to its operation. He knew that it had been made the instrument of much clamor, but there was no law so wholesome that party could not create a clamor against it. The law in question went no further than to punish acts which no one would be hardy enough to say ought not to be punished. It moderately chastised the author of a false and malicious libel, who employed falsehood maliciously to deceive the people as to the conduct of the officers of Government. It was no matter how wicked the motive of an author might be, provided his publication was true, nor was it material how groundless the publication was provided the motive was honest. It was the combination of wickedness and falsehood alone that was punished. And he would ask whether the nation had now anything to fear from the suppression of such a combination?

It was not his intention, Mr. B. said, to go into a dilated argument on the subject; he should however beg permission to notice some things which fell from the gentleman who moved the resolution before the House. The gentleman had urged what had often been said, that the law was unconstitutional. If this objection were clearly founded, the Legislature could not be in too much haste to repeal the law. But the enemies of the law must at least allow the point to be extremely doubtful; and considering in case the Legislature had erred, as to their power on the subject, the citizen who was injured might seek relief from the judiciary by contesting the validity of the law, there was the less occasion to adopt the resolution. If the act was unconstitutional it was no law; and, if no law, there was no occasion for the present interference of the Legislature.

It is insisted, by the gentleman from North Carolina, that the act is repugnant to the amendment to the Constitution which provides that Congress shall make no law abridging the freedom of the press. The gentleman himself had seen a wide difference between the liberty and licentiousness of the press, and he had endeavored to anticipate the distinction. It is said that no line can be drawn on the subject; that the shades are indiscriminable and that you cannot curb the licentiousness without wounding the liberty of the press. Nothing could be more fallacious than such reasoning. It applied with equal force to every human act which was punishable, because every act was equally susceptible of the shades of innocence and criminality. Crimes of the deepest dye, capably punished, might be traced by a connexion scarcely perceptible to actions not only

lawful but laudable. The act of homicide was graduated by the nicest lines, and according to the shades of the act it was commended, permitted, excused, or punished by the law. If the possibility of touching the liberty of the press were an objection to punishing the abuse of it, on the same principle the whole criminal code ought to be abolished. It was always possible that innocence might be the victim of a law designed against guilt. Many innocent persons had suffered, and even capitally, but this only proved the sad law of our nature, but too well known, *humanum est errare*.

Mr. B. said it was impossible for him to feel a difficulty on the point of distinguishing between the liberty and licentiousness of the press, when he thought the line was full and clearly defined by the law in question. Surely to say the press shall not be the vehicle of malicious falsehood, is not to restrain its just liberty. Will gentlemen say the Constitution meant to establish an empire of falsehood, or to prevent the erection of pillars of truth? Can the freedom of the press require the liberty to publish malicious lies? Can any one hesitate in saying that such a liberty would be licentiousness? The law had said no more. It has defined licentiousness to be the malicious publication of falsehood. And can it be said that the punishment of such an act restrains the just liberty of the press? Gentlemen could not suppose that the law was liable to be perverted to a different end. They would remember that its execution was placed in the same hands to which were trusted our properties and our lives. No man could suffer under the law, unless a jury of the country convicted him of the offence designed by the law. He might defend himself by the truth of his statements, or the purity of his motives, and the jury would not, and could not convict him but on the belief that with wicked intentions he had published what was false. With this protection what was to be feared? The honest citizen was secure, it was only the restless, ambitious, unprincipled disturber of the peace who had anything to dread.

The honorable gentleman had also relied upon that amendment to the Constitution which reserves to the States and the people the power not delegated to the United States. Mr. B. admitted that if the power was not delegated to the United States it could not be exercised by Congress.

But he insisted that the power was delegated. He found it in the last clause of the 18th section of the first article of the Constitution. By that clause Congress has power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by the Constitution in the Government of the United States, or in any department or officer thereof." This clause expressly delegates a general power of self preservation. The right given to the Government to make laws proper for carrying into execution the powers delegated, necessarily carries with it the right to make laws proper to preserve and maintain the powers delegated, because the powers cannot be execu-

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ted unless they are preserved. To preserve its powers the Government must certainly defend the foundation on which they rest. The Government of the United States is immediately bottomed on public opinion. It originates with the people and depends on their will for its existence, and on their arms for its protection. Poison the fountain of its being and the whole frame is palsied, and must sink into lethargy or die in convulsions. The Government is bound not to deceive the people, and it is equally bound not to suffer them to be deceived. Delusion leads to insurrection and rebellion, which it is the duty of the Government to prevent. This they cannot prevent unless they have a power to punish those who with wicked designs attempt to mislead the people. Sir, said Mr. B. for Government willingly or weakly to suffer the people to be misled, is to commit treason against them. It is our duty to defend them against deception, and when they are rightly informed, there is no doubt but, in their turn, they will defend the Government.

The gentleman from North Carolina, however, had said the truth needed not the aid of a law; that in the end it would always prevail against falsehood. This was a fine moral sentiment, but our limited knowledge of events did not verify it. There was scarcely a period of the world, at which the empire of falsehood was not as extensive as that of truth. The labor of truth was eternal, as fast as it vanquished one enemy another arose. Would the gentleman say the truth always prevails, when he looked to the state of our holy religion? Near 1800 years had elapsed since its light was abroad, and yet how large a portion of the world remained in darkness and error! If the sentiment, however, were true, it would not dispense with the propriety of the law. Though truth had power to prevail in the end, it was no reason why we should not assist it in the beginning. Were we called upon to be impartial between the principles of truth and falsehood, and to allow them to contend on an equal footing? Before the victory was obtained by truth it often happened that much mischief was done by falsehood. This was especially observable in political affairs. The law in question was enlisted in the service of truth, and designed solely to oppose her enemies.

Mr. B. said he had not risen with an intention of entering largely into the subject. He had been drawn further than he had designed to go, in answering observations which had fallen from the gentleman from North Carolina. His design was to vote against the resolution. He thought the law a wholesome one, and that it ought not to be repealed.

There was no modification of the resolution which would induce him to agree to it. But he thought it susceptible of amendment which would render it less exceptionable. Not knowing the event, he considered it as a duty to render the resolution as harmless as possible in case it should succeed. He should perhaps not disappoint the wish of the honorable gentleman who moved the resolution. It was certainly not the design of that gentleman to raise the floodgates of slander and

defamation. His motive probably was a tenderness for the Constitution, which he might consider infringed by that law. The amendment he designed to propose would still hold out the terror of punishment to those who wickedly aspersed the members of the Government. The gentleman must often have observed in the public prints slanders the most flagitious and unfounded, designed to impair the confidence of the nation in officers of great trust, and whom we all knew to be equally faithful and zealous in the performance of their duty. Surely in such case it should be known that there was a power to punish. He should therefore move to amend the resolution by the following addition:

“And the offences therein specified shall remain punishable as at common law; provided, that upon any prosecution it shall be lawful for the defendant to give in his defence the truth of the matters charged as a libel.”

Mr. GALLATIN could not conceive what connexion the amendment, as it was called, had with the motion of the gentleman from North Carolina. It in fact amounted to a complete substitute for that proposition. The motion was calculated to repeal a part of a law, but the amendment was calculated to establish an entirely different principle, in direct opposition to the intention of the mover—not only that a certain class of persons should be punishable at common law, but that they should “REMAIN” punishable at common law. This was certainly an independent proposition, and therefore improper to be coupled with it.

In the next place it was improper, inasmuch as it would go to revive a law which the motion went to repeal, and therefore, being to all intents a substitute for the original motion, could not be in order. Nor could the motion be of any use according to its own words. It provides that certain offences shall remain punishable at common law; this implies that they are already punishable in the courts of the United States, and if they are now punishable, there being no attempt to change the jurisdiction of the common law over them, it can be of no use to declare they shall remain so. The resolution goes to repeal a statute. Is it necessary then to say that a measure which goes to repeal a statute shall not go to repeal the common law? The common law remains of course. But if the amendment, or supposed amendment, goes to establish a kind of substitute, by maintaining the principle of the statute which was identically the same that the resolution was intended to destroy, it certainly must be out of order. Mr. G. appealed to the Chair.

The SPEAKER declared the amendment in order.

Mr. NICHOLAS said if the amendment meant anything, it certainly implied that these offences were now punishable at common law, by the expression “remain.” For what then could the amendment be introduced? It could not be pretended that the motion of the gentleman from North Carolina was calculated to repeal any part of the common law. If it was meant to declare what would be of course, it could have no operation at all. If the real design is not the apparent one, it is very evident that something farther is intended than the gentleman has acknowledged or

the House is aware of, and can only operate as a trick to defeat any attempt to repeal the law, or to couple with it a provision much worse than all the provisions of the law. Something is meant to be adopted which is not now in existence, and which gentlemen do not wish to declare.

Were gentlemen prepared, Mr. N. asked, to bring into force in this country all the common law of England, and with it all the punishments and penalties there inflicted? He knew that this would be esteemed extremely useful and gratifying in one department of the Government, but it could not be done; he knew that there was too much wisdom in that House to admit of such a system, the danger of which was extremely evident.

If the motion was to introduce no new law or principle, it would be useless, but if it was to introduce a new law, or rather a new and essential principle, (of which he had no doubt,) an hundred more unknown but hidden ones would attend it, because the practice of another country would be introduced in all its rigor. This was done in a way which he conceived never could meet the assent of Congress—it covered under it so much more than it pretended—and which, whenever established, must have a serious effect. He therefore trusted it would be rejected.

Mr. BAYARD said, it was as little his intention as it could be his expectation to cover under plain words a design which no veil could have concealed from the eyes of the House. He did not know what the gentleman meant by a trick. But if he meant anything unfair, it was not justified by what had occurred on the occasion, and could be attributed only to a disposition which is ever ready to suspect what it is apt to practice. He had no hesitation in avowing that the amendment was predicated in the existence of the common law, and was not designed to introduce it. He had always been of opinion, nor could he suffer himself to doubt, that the common law existed under the Constitution of the United States. He had no doubt that those who wished to weaken the Government would maintain a different doctrine. Without the common law the Courts of the United States would be reduced to a cypher, and the other branches of the Government be stripped of that great defence which its institutions and principles afforded. Without recurring to the common law the Constitution could neither be explained nor executed. The judicial bill supposed it to exist, and the judges had pronounced its existence. He was informed that the question had been several times decided, and that all the judges united in opinion with the exception of one. It was a point proper for the judiciary to decide, and their decision was full evidence of the existence of the law. It might be in the power of Congress to unmake the law, but, after the judicial determination of the point, it was necessary for them to enact it.

Mr. B. could not conceive how the gentleman from Virginia could misunderstand the language of the amendment. The words were, that the offences specified in the act should *remain* punishable as at common law. Was it necessary to ex-

plain to the gentleman the meaning of the word *remain*? If the gentleman was not capable of understanding the word, Mr. B. said he certainly was not to blame, as it was in no degree ambiguous. But he hoped at least, that his express avowal that he considered the common law as existing, and that he considered the offences specified in the act as punishable at common law, would render him intelligible even to the gentleman from Virginia.

The principal design of the amendment was to ameliorate the common law. It was known that upon a public prosecution for libel, the truth of the matter charged as a libel was no defence. This doctrine he thought unrighteous in itself and inconsistent with political freedom. He could not consent that truth should be punished. It was important that the truth in politics should be known. He wished to circulate it, and support its credit, by punishing the impostures of falsehood, which frequently assumed its appearance. When the Sedition bill was before Congress, he had been governed by the same principle, and proposed an amendment to the same effect with the present, which was incorporated in the bill.

Mr. B. would only further observe, that in his opinion without a power to punish defamation a popular Government could not exist. It rests immediately on the opinion of the people. The public affection is the vital principle of the Government. Let that affection be alienated and the Administration is palsied. Not a law could be executed, not a measure could be supported. Must not the Government have the power of preserving itself? They who doubt this principle must wish it exterminated. It could not preserve itself without the power of punishing those atrocious and poisonous falsehoods, which unprincipled ambition and the violent spirit of party were ever ready to employ as means to accomplish their purposes.

Mr. GALLATIN said, the gentleman from Delaware (Mr. BAYARD) certainly did give the House to understand that he meant, by his amendment, to introduce a new principle: for he had asked whether the gentleman from North Carolina would leave the country without a law to inflict punishment on these offences; would he open the flood-gates to defamation and scandal? This certainly implied that there was no law to correct the evil: he had not then told the House that libels were already punishable at common law, by the Federal Courts. But afterwards he came forward and denied any design to introduce a new principle: he said that the common law was the law of this land.

Mr. G. did not understand the precise meaning of the gentleman. This was a principle so extremely extensive, and susceptible of so many meanings, that he presumed it impossible to be understood. If, as the gentleman said, the amendment conveyed no new idea, because the offence was already punishable at common law, what then did it mean? It must mean that it was not an amendment to the resolution, but an amendment to the common law, in order to effect the same object which the resolution first proposed

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went to repeal, and therefore it could not be in order, because one was in direct violation of the other. But the decision of the Chair had pronounced it in order.

Mr. G. suggested to the candor of the gentleman, whether it would not be better to make a distinct proposition of his motion. If the first motion is carried, it will be in his power at any time to propose any other he may think fit. An admission of the one will not prevent the subsequent admission of the other, but certainly the first ought to be the first in order. But to force the House into a debate, not on the principle of the first resolution but of a new one, viz: what would be the best substitute, or what would be the law, if this should be repealed, certainly was not consistent with his usual candor. This must necessarily puzzle the friends of the resolution as to what vote to give. The House were told that the judiciary, with one exception, had pronounced the common law of the land. Mr. G. wished to understand the assertion. Upon this broad and large construction of the judiciary, he would not hesitate to say that "we have no construction;" for if it was intended to say that certain species of offences, which had been recognised as offences by the common law (perhaps) of Great Britain, were within the jurisdiction of the judiciary of the United States, merely because they were offences at common law, it was clearly the same as setting aside at one stroke all the restrictions and limitations of power as expressed in the Constitution. It was giving to the judiciary a legislative power of adopting certain laws not enacted by Congress as the law of the land. Indeed it was giving a farther power: Congress had no power to legislate on any subject which was not specially granted to them by the Constitution; but, if the other doctrine was true, the judiciary could decide on subjects upon which Congress could not legislate.

But, Mr. C. asked, where did the judges get that power of making the common law the law of our land? Their power is limited; no department of the Government has a power to make laws but the Legislative, and if that idea is just, how can the judges assume an uncontrolled jurisdiction over all common law offences? The motion certainly argues that the judges have a power which it cannot be proved ever was given to them by the Constitution. He said he was not ready to meet this altogether new principle, in every point of view a subject of such magnitude merited: these ideas were drawn from him as the most prominent on the occasion.

When the Sedition law was proposed and adopted, was it brought up with a view of ameliorating the common law, because its severities for this species of crime were too hard? No, it was undoubtedly brought forward as a measure of defence. It was thought that there was no power in the judges to carry into effect such punishments as were thought by a majority essentially necessary to support the Government. It was therefore brought up as a part of the general defensive system. When a motion was made to repeal it during the last session, the committee appointed to

report on the subject, did report on it as a part of the measures of defence against France, and therefore, in that state of things, thought it improper to repeal it. Nay, were not the arguments of the gentleman this day grounded on the necessity of the law being continued? What need of all this argument, and of what force would these opinions be if the crime was already punishable at common law? All these arguments would be fallacious, if the offence was already punishable at common law. This being a question of so novel a nature, Mr. G. presumed the House was not prepared to discuss it. Indeed it was one of so delicate a nature that it ought not to be admitted in a way wherein it could not be maturely discussed. If the offences are cognizable at common law, then the motion of the gentleman from North Carolina would leave the subject in the same situation as the gentleman from Delaware wanted to place it, but if they are not cognizable, the motion of the gentleman from Delaware would make them so. It is impossible to conceive that the latter gentleman could think his motion necessary, except it was to destroy the other motion, and if meant to destroy that, it ought not to be admitted as coupled with it.

Mr. HARPER said, whether the conduct of the gentleman from Delaware was candid or proper, the House could judge, but that there was neither a want of candor or of propriety evinced in the present proposition, he believed, must plainly appear; however, it did so to him. This method of introducing amendments was constantly the practice of the House; it would not be a novel practice to endeavor to make a thing better which was disapproved of. Mr. H. disapproved of the motion on the table; but, if it must pass, he certainly would wish it to pass in as unexceptionable a form as possible.

There appeared to him but two distinct propositions now before the House. One was, whether the common law, generally speaking, was the law of the land; and the other, whether these offences were punishable under the Constitution of the United States. These were entirely distinct. He did not consider it necessary to inquire, on the present subject, whether the common law was in force in the United States, or whether it was not; the only inquiry he thought was, whether the offence of libelling the Government was punishable in the United States without the aid of a statute. Of this he never had a doubt.

The Constitution provides that all offences under that Constitution, or the laws made in pursuance thereof, should be punished by the judiciary power. Now the law which our forefathers brought with them, and to secure which they shed their blood, is what is termed the common law; by this law it was punishable for any person to libel the Government, by fine and imprisonment. This law, therefore, is an affirmation of this common or universal law. If the subject matter exist, the law operates: if the Constitution of the United States gives birth to the subject matter, the offence is therefore punishable under that Constitution. When the Constitution created the Government,

it brought into existence the subject matter; the offence therefore arises under the Constitution, and in that view the judiciary power can punish libels against the Government of the United States.

With regard to the reasons why this law was introduced, the gentleman last up was mistaken, both as to facts and conclusions. He said that the reasons why the law was introduced were grounded on measures of defence, and that this was considered as a part of that system. Every other gentleman but him, Mr. H. said, knew that the reason was because there was a doubt entertained as to the applicability of the common law to this species of offence, and whether it could be punished under the Constitution or not. To remove these doubts the law was made—it was introduced as a declaratory act—an act to render a pre-existing fact notorious, and so express, that “he that runs may read it.”

Another object was to mitigate the undue rigor of the common law, and to give opportunity for the person charged to clear himself by proving the truth of his assertion. On this ground also the present amendment was introduced, and on this ground it is an amelioration to what would exist without it. It was true, that this law was passed about the same time of the adoption of the defensive measures, but the conclusion that this was one did not follow of course. Nor was it to be inferred, from the period at which it was passed, that no such offence existed independently of the act. If these things were true, there was an absolute necessity for the motion of the gentleman from Delaware, in order to declare what is the law of the land, as it stands, independent of the statute; and for another use, as observed before, to remove the severities of the penalty. It was not his desire, Mr. H. said, that the law should be repealed, but if it must, he wished it to be coupled with this provision.

Mr. SMITH concurred in the idea with the gentleman from Pennsylvania, that this bill was certainly brought forward in connexion with measures of defence. The bill was first brought into the Senate in a very objectionable shape indeed, it was changed there, and underwent other alterations in the House. It was thought a measure essentially necessary, to guard against the treachery that was at that time apprehended from the French. Another proof of that principle was, that the bill was made to continue in force about the probable time that this necessity might arise. There was then no doubt of the connexion of the bill with the other measures of defence entered into at that period. It was clear, therefore, that the gentleman from South Carolina himself, and not the gentleman from Pennsylvania, was deficient in his recollection of the grounds on which the law was built.

Mr. NOTT moved, as the question was so materially changed by the last motion, and as it appeared to him to involve an important subject, that it be referred to a Committee of the whole House. He believed he was not singular in his wish; he was not prepared to give his vote, and supposed it must be the case with other gentlemen, on which

account he wished it to receive every possible consideration.

The question for commitment was taken and negatived—49 to 41.

Mr. NICHOLAS confessed, notwithstanding the skill of the gentleman from South Carolina in enlightening his hearers, that his understanding was yet so dull that it was impossible for him to escape the imputation of ignorance from that gentleman. He considered this motion in no other light than as an affirmance of the common law, covered under the pretended modification of it. This appeared to be confessed in effect, though not openly. The gentleman from Delaware at first pointed out the danger to which he supposed the Government would be exposed by the flood of slanders opened on it by the motion first made, and yet the gentleman now says he only intended to ameliorate the common law, and not to introduce new restraints. He said farther, that he himself never had a doubt about the common law being the law of this country, but acknowledged there was a doubt in the judiciary about it. This was a proof that if it was not the established law, he wished it to be in force, and therefore, as there was some doubt about it, he proposed an affirmance of the principle. Let the gentleman endeavor to clear himself of that imputation as much as he pleases, it still was evidently his desire that the House should sanction the common law, which Mr. N. trusted they never would do.

Mr. N. said he should not pretend to go into an examination of what is meant by the common law; he confessed he could not do it; he did not know what it was, nor did he ever yet see a man who could explain it to him, or that pretended to do it. It was the first time that he had heard it said that the Sedition law was intended as a modification of the common law; he appealed to the debates of the period when the Sedition law passed; there was not a solitary opinion then given that the United States had such law as is now called the common law. He recollected, indeed, some gentlemen saying that it was a law in all the States, and thence argued that it was necessary the General Government should have similar restraints.

The gentleman from South Carolina, indeed, had endeavored to remove the difficulties in the way of the amendment, by calling it part of the universal law. This was quite a new term, and a new doctrine. Where he was to go to look for this law, he was more at a loss than before. Was it the practice of all nations, and was no Government to deviate from this universal law? It was not to the common law of England alone, then, that they were to affirm, but something yet more uncertain! But the gentleman pretended to prove it an offence under the Constitution. The Constitution indeed speaks of the offences under it, but defines a variety of crimes, more than enough to satisfy such an expression—treason for example is a crime, under the Constitution, the mode of punishment being left alone to the law. On the whole, whether the amendment is to be understood according to the gentleman's first explanation, as a substitute for the Sedition law, or according to his last explanation

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as an amelioration of the law of the land, it must deserve the name he had given it, a trick to effect more than the terms of it seemed to import.

Mr. OTIS said, that the amendment proposed by his friend from Delaware was new to him when offered to the Chair. He was however astonished at the unwelcome reception which it had encountered. It appeared to him to be a most happy expedient for reconciling the views of the friends and opposers of the original act, and yet it affected some gentlemen with stronger abhorrence and apprehension than the law itself. The true state of facts relative to this subject he apprehended to be, that gentlemen on one side of the House maintained an opinion that libels against the Government were punishable by common law, and that the truth was no justification. On the other side it is believed that the common law is unknown to the Constitution, and the Sedition act, being a violation of the Constitution, ought to be repealed. The judicial courts of the United States are alone competent to decide this question. It is not to be expected that either party will recede from a belief of its own tenets. The amendment of the gentleman from Delaware is calculated to leave each in possession of its respective doctrine, and to guard against the mischiefs arising from either. He agrees that the act shall be repealed, and only requests that if, in that event, our opinion of the competency of the common law should be established by the proper tribunal, a man charged with writing a libel may be permitted to give in evidence the truth of his assertions. Wherein consisted the unfair design, or appearance of duplicity, charged upon this measure, he confessed that he could not perceive. It did not contain the affirmation of any new principle, unknown to the Constitution, and, if it did, it would be of no binding authority. It proceeded merely upon the supposition that the principles of the common law were recognised by the Constitution. If the assumption of this principle was erroneous, a court of law would decide against it; but if, on the other hand, it should happen to be sustained, would not the utility of a provision appear manifest, which should screen from punishment the author of a publication founded in truth.

Mr. O. observed, that in reply to the gentleman from Pennsylvania, who denied that the common law was recognised by the Constitution or the laws, he would venture the assertion, that the Constitution itself was not intelligible without the aid of definitions taken from the common law. In one section was contained an express allusion to trials at law, which could be satisfied by no other law than the common law. This construction had been retained in the act for establishing the judicial courts, which provides for trials at common law, in so many words. All our forms of trials and judicial proceedings, as well criminal as civil, are modelled upon and conducted conformably to the uses of the common law. He was at a loss to account for the repugnance entertained by some gentlemen to a law under which nearly every member of the House had been born and educated, and from which they derived a security

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for their titles to their estates, and for the principal rights of property and persons.

But gentlemen are pleased to declare their ignorance of the meaning of the words "common law." Do you mean, say they, the common law of England? Is that the law of this country? If not, how do you define and explain it? I will answer, said Mr. O., No! We mean not the law of England in its full extent. We know that a great part of that law does not apply to the nature of our Government or the circumstances of our country. But we mean so much of that law as, being applicable to the circumstances of this people, has been adopted into practice by constant and immemorial usage. It may indeed be pretended, that this law has been so variously modified in the different States, as entirely to destroy its uniformity, and consequently its relation to the whole people of America; but to this objection it was a plain answer, that the right of punishing all misdemeanors, which, being wrong in their own nature, had a tendency to destroy the Government, was inherent in the people of every State, and had never been relinquished by any of the United States. It was a principle of common law essential to the preservation of social order and of every Government under Heaven. It was the basis of the present Constitution; a birthright to which we should cling as a blessing, and a privilege, and not abjure as a curse. The reason which operated upon his mind in favor of the amendment, was what he had assigned; to secure the citizen from the rigor of the common law in this particular, if he should be found amenable to its jurisdiction.

The argument of the gentleman from Pennsylvania is, that if the common law be unknown to the Constitution, this amendment will give it a sanction, and if it be a part of the Constitution the amendment is unnecessary. This argument may be retorted upon the gentleman. If the common law be a part of the Constitution the amendment will be nugatory and do no harm—but should it be otherwise decided, as it has already been in several cases by the Circuit Court, then the amendment will ameliorate the common law and prove highly beneficial.

Mr. MACON thought it the most extraordinary amendment that ever was tacked to a resolution. It meant neither more nor less when coupled with the resolution, than that the law ought to be repealed, and yet continued in force! If the common law was in force, and could punish the crimes, what reason could there be for declaring so by a statute? If it was not, he was not yet convinced that this would not establish it; he feared it would. The law in question was said not to be a measure of defence. In addition to what had been said on that subject, he referred to an observation of Mr. RUTLEDGE, a few days ago, in reference to the resolution now before the House: in recapitulating the measures of defence which he supposed some gentlemen wished to repeal, he mentioned this as one, and no doubt he thought it one.

Mr. HARTLEY was in hopes there would have been an open and candid discussion of the first

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motion; he conceived it would have a very good effect upon the minds of the people, who were dissatisfied with the law. He considered that more harm than good would attend this law, and therefore, as a question of policy, it would be best to repeal it. The few prosecutions which had taken place under it, he considered had tended to bring two or three individuals to public notice and consequence, who would otherwise have sunk into nothing, or never been known. He believed it was generally the opinion of the bench that the common law was in existence in this country, but that question had not fairly come before the House; he wished it had been made the subject of a distinct proposition, and not been so interwoven with what he considered entirely another subject. It would be remembered that last session, he had presented a petition from 1,700 of his constituents against this bill; paying some attention to their will, and doubting the propriety or policy of the law, he should vote for the repeal of the section proposed by the gentleman from North Carolina, and against the amendment.

Mr. J. BROWN, in answer to the observation of Mr. HARTLEY, that he had presented a petition from 1,700 persons, against this bill, said that he presented one from 3,000, not one of whom, he would be bold to say, wished to have the act repealed.

The question was then taken upon the first part of the resolution in the words following:

Resolved, That the second section of the act passed the 14th July, 1798, entitled "An act for the punishment of certain crimes against the United States," ought to be repealed:

And carried in the affirmative—yeas 50, nays 48, as follows:

YEAS—Willis Alston, Theodorus Bailey, Phaniel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, William C. C. Claiborne, John Condit, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Gallatin, Samuel Goode, Edwin Gray, Andrew Gregg, John A. Hanna, Thos. Hartley, Joseph Heister, David Holmes, Benjamin Huger, George Jackson, James Jones, Aaron Kitchell, Michael Leib, Matthew Lyon, James Linn, Nathaniel Macon, John Marshall, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, Abraham Nott, Josiah Parker, John Randolph, John Smilie, Samuel Smith, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

NAYS—George Baer, Bailey Barlett, James A. Bayard, John Bird, Jonathan Brace, John Brown, Christopher G. Champlin, William Cooper, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, William Gordon, Roger Griswold, Robert Goodloe Harper, Archibald Henderson, William H. Hill, James H. Inlay, John Wilkes Kittera, Henry Lee, Silas Lee, Samuel Lyman, Lewis R. Morris, Harrison G. Otis, Robert Page, Jonas Platt, Leven Powell, John Reed, John Rutledge, junior, Samuel Sewall, James Sheafe, William Shepard, George Thatcher, John Chew Thomas, Richard Thomas, Peleg

Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

Mr. LEE said the question was, at this moment, whether the House should say to the world that the councils of the United States possessed the means of legislative provision, or whether they did not—whether the American Government had not made a law upon a subject over which it possessed ample power to legislate? A manœuvre had been introduced to repeal a law, but by the rules of the House that manœuvre had completely turned against its friends, that part of the resolution having passed. Mr. L. was very happy an amendment had been introduced which enabled him to vote in a way to get rid of the deformity attending the original proposition, and at the same time to make the condition of the people better than it was under the law. He was one of those who believed that the common law was the law of this land, and therefore he was desirous of amending the proposition of the gentleman from Delaware to the one now passed. With that amendment he should be induced to vote for it, because it would ameliorate the common law; it would enable the accused to produce the truth (if truth existed) in his defence.

Mr. NICHOLAS conceived the common law was at its last push, and that if gentlemen, who were friends to it, could not get this, or some such provision, to support it, it was beginning to appear so monstrous that it never could be executed in this country. There might be found court after court who could give opinions in favor of its existence and force, but he should venture to say that public opinion must finally make them abandon the doctrine.

The principle proposed was recommended upon the ground that the accused might give the truth in evidence. He would venture to say that if this amendment was admitted, the accused would scarce ever be able to give the truth in evidence. Let the President or let the Congress act as corruptly as possible, let them do it as constantly as possible, it could not be proclaimed to the world; they were too secure under this provision, because what may be the truth, it might be impossible to produce in evidence. This was the amount of the doctrine. This view of it ought to deter the House from adopting so evil a principle.

As to gentlemen saying that this would leave the power precisely where it was, and would introduce nothing injurious, but on the contrary would operate to soften the rigor of the law, it was nothing but a specious provision, and unfounded reasoning, introduced to render a dangerous doctrine acceptable, and to make it go down the more unperceived. It certainly was calculated to give legislative sanction to the decision of the judges, so that if it was a wrong principle, in this instance, it would be more than a common wrong, and he hoped gentlemen would be so impressed with its evil tendencies as to vote against the motion.

Mr. DANA quoted the ordinance for the government of the Territory Northwest of the Ohio, in 1787, to prove that common law was established

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in the American code, that people were entitled to *common law* jurisdiction, and it was considered as a valuable article. The government of the common law was repeatedly recognised, he said, in our courts of justice. But it was not confined to civil actions, as recognised by the 9th amendment to the Constitution, but in many instances extended to criminal actions. In the 10th amendment the article of bail was treated of, excessive bail was not to be required; the nature of bail was settled always by the usages of common law, and common law alone could say what was excessive bail. Again, I will say, that in a case where a new trial is required, no fact already examined shall be re-examined but by the *rules of common law*. Indeed the whole code was full of references to the existence of common law; every public record was drawn agreeably to common law usage. When he spoke of common law, Mr. D. said, he did not mean the common law of England, but he meant that part of the universal common law which was adopted by America, and which was become *our common law*. The common law jurisdiction being as well established as the Constitution, the laws, and the practice of our courts could make it, the amendment proposed could not be considered as introducing a new principle. On these grounds he should vote for it.

Mr. GALLATIN considered the observations of the gentlemen from Massachusetts and Connecticut, as an answer to the objections made to the proposition as it respected the existence of common law. The principle that courts in their proceedings on subjects within their jurisdiction should be governed by the rules of common law, and adopt certain general definitions of common law, was very different from the principle that a certain class of offences which otherwise were not within their jurisdiction, should be cognizable by those courts merely because they were offences at common law. Let it be granted that the common law is recognised to a certain extent by the Constitution and laws of the United States, that it has been modified in the different States to suit their circumstances, and that it serves as a rule by which the judiciary is to be governed in their conduct upon questions on which by the Constitution and laws they have jurisdiction. But here we stop, and say that we do not wish, under color of common law jurisdiction, to give our sanction to a new species of power which the judiciary never have possessed, and which they cannot assume without it. This amendment declares that a species of offence, the jurisdiction of which does by the Constitution belong to the judiciary, does in effect belong to them by another power—that of common law. Thus the gentleman creates two Constitutions, that of the United States, and that of the common law? He admits two distinct sources whence our judges derive their authority.

It is certain that the doctrine now insisted on goes to erase from the Constitution all the limits by which the judiciary are bound. We say, that by the Constitution, the power of the judiciary is limited to certain prescribed bounds, and that they cannot go beyond those points, and therefore, as

specific powers are given to them by the Constitution, they cannot have those powers increased or assume new powers; but does not this motion go to give a new series of powers to that department? Nay, does it not go to say that not only the offences now under consideration, but all those offences which, although not within their jurisdiction, are offences at common law, shall be cognizable by them? Mr. G. said he did not think it could be proper, upon a slight investigation, for the House at once to decide that this extensive and hitherto unknown jurisdiction should belong to the judges.

But why, Mr. G. asked, was the proposition now made? It could be for no other purpose than to defeat the resolution just adopted, and to re-enact a section which it had been just agreed to repeal. The second section says that certain offences shall be punished by the law itself in a certain manner—this it was agreed to repeal; but now came another motion forward, to say with the same breath that these same offences should be punished, but in a different manner. Why is this alteration in the mode of punishment? It must be because one is preferable to the other. But what is the punishment the common law inflicts? If he mistook not, the punishment enacted by common law was more discretionary or more penal than what was now proposed to be repealed. Fine and imprisonment, without limitation of even pillory, were the common law punishments. Therefore, the gentleman who made the original motion and the friends of that motion were now called upon to adopt a principle more hateful, in their opinion, than the one they had just voted to repeal. Mr. G. said he would much rather have the present law continue in existence than that the common law should be substituted, because the punishment inflicted by common law was greater and more arbitrary, and because the law would soon expire, whilst the amendment rendered the doctrine of common law perpetual.

Those gentlemen who wished to repeal the law as it now stands, did it with a view of substituting something better and not something worse, but if they were to agree to their own motion, accompanied by that of the gentleman from Delaware, a worse and perpetual law would be substituted for a temporary one, and therefore they would be compelled to vote against both, when connected. As it was clear, therefore, that the second motion would inevitably defeat the first, he hoped those who voted for the one would vote against the other.

Mr. HARPER observed, that all the gentlemen who had spoken to these motions constantly recurred to the same misconception with which they set out. The question was not, as gentlemen had treated it, to know whether the judges were to have a power delegated to them by this law which was not given them by the Constitution; but the real question was whether the offences herein detailed were punishable under, and by the Constitution? In the discussion of it they said there was no common law in the United States; or, however, to clear themselves of what they could

not get out of otherwise, they called it all a mere matter of form!

Mr. H. would ask them whether the rules of evidence was a matter of form? Suppose for instance a criminal trial was brought on in one of the courts; in a case of life or death: the evidence in that case must be given and accepted upon rules of common law—would gentlemen call this only a matter of form! If they would, common sense must revolt at their judgment. Suppose a case of murder—the legal definition of murder must be known, and could only be known upon common law principles. Where would you go to find it? Not to the Constitution, nor to our statute books, but to *Hawkins*; there is its definition, and that is common law. Suppose the inquiry be, what is the law on the rule of deficit; where would you find what are the rules? You must go to *Blackstone's Commentaries*. These are important questions, and are only soluble on common law principles. So it is with all rules of law, and yet, however important, there is to be no common law, agreeably to these gentlemen's opinions. If, then, there is such a thing as common law, if it is recognised in any court of the United States and in all the State courts, and their whole practice is built on it; if it goes to life, to limb, and to reputation; if its use among us is without limits; where are gentlemen's arguments? How can they refuse to recognise a thing which necessarily is in continual existence whether they do it or not?

The question was then taken on Mr. BAYARD's amendment and carried—yeas 51, nays 47—in the following words, after Mr. MACON's motion:

"And the offences therein specified shall remain punishable at common law; provided, that, upon any prosecution, it shall be lawful for the defendant to give in evidence, for his defence, the truth of the matter charged as a libel."

The following are the yeas and nays upon the amendment:

YEAS—George Baer, Bailey Bartlett, James A. Bayard, John Bird, Jonathan Brace, John Brown, Christopher G. Champlin, William Cooper, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, William Gordon, Edwin Gray, Roger Griswold, Robert Goodloe Harper, William H. Hill, Benjamin Huger, James H. Inlay, John Wilkes Kittera, Henry Lee, Silas Lee, Samuel Lyman, Lewis R. Morris, Abraham Nott, Harrison G. Otis, Robert Page, Josiah Parker, Jonas Platt, Leven Powell, John Reed, John Rutledge, jun., Samuel Sewall, James Sheafe, William Shepard, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

NAYS—Willis Alston, Theodorus Bailey, Phanuel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, William C. C. Claiborne, John Condit, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Gallatin, Samuel Goode, Andrew Gregg, John A. Hanna, Thomas Hartley, Joseph Heister, Archibald Henderson, David Holmes, George Jackson, James Jones, Aaron Kitchell, Michael Leib, Matthew Lyon, James Linn, Nathaniel

Macon, John Marshall, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, John Randolph, John Smilie, Samuel Smith, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

Some discussion here took place on the point of order, as to taking the question on the whole resolution as amended; with some gentlemen, and with the Speaker, it appearing that if both parts of the resolution were carried, of course the whole was; on the other hand it was suggested as unfair to force an amendment on an original resolution which destroyed its whole effect, and substituted a worse principle, on which account they wished to vote against the whole.

Mr. OTIS relieved the House from the embarrassment by moving the question on the whole resolution.

Mr. RANDOLPH rose to express his reasons for the vote he was about to give. He was sorry this extraordinary measure had been used to prevent the question being taken in the way it ought to have been. If the friends of the original motion were now to vote for it, it would put the liberties of the people upon an infinitely worse footing than at present. The question ought to have been, simply, whether the House would repeal an obnoxious act? But it seemed to have been changed so as to be, whether the House would place offenders under that law in a worse situation than before? Those who were even enemies to the law as it now stood, could not hesitate to vote for the preservation of a law they disliked. Mr. R. disliked the law in question because it was unconstitutional, and because it was inexpedient. Were the first objection out of the question, the latter alone would be important. Those gentlemen who had witnessed the impression this law made on the public mind could not avoid being earnest for its repeal, but however earnest, he never could agree to substitute a worse for it.

Though some gentlemen seem to think that the parts were the same as the whole, and though it might be self-evident in mathematics, yet it certainly was not always so in morals, nor in politics. This question, taken in its aggregate form, was as foreign to that originally proposed as was possible. Mr. R. said, so far was he from wishing to subject the people of the United States to what was called common law usage in this country, so far was he from declaring a power to exist where the Constitution had not placed it, that, as much as he disliked the Sedition law and much as he approved a motion for its repeal, he should vote against it in this dangerous shape, and hoped gentlemen who had entertained the same dislike to it would act in a similar manner, and not be carried away with the fair pretence of amelioration, so much talked about—a mere evasion of the merits of the resolution. These were the reasons which would influence him to reject the resolution in turn.

Mr. SMILIE also rose to give his reasons, to a similar effect. He never could agree to make an offence felony for which he considered the penal-

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ties of fine and imprisonment too severe. The common law would at once make libels felony. He hoped the resolution would be unanimously rejected.

Mr. EGGLESTON said, by voting against the resolution, the present law expires in March, 1801, but if the common law was adopted it was a sore which would never wear away, and a sore much worse in its nature than the law now in force, hateful as it was.

Mr. R. WILLIAMS was sorry to see gentlemen plume themselves and appear to take advantage of what no rules of propriety could approve, to wit, the snare they had brought gentlemen into. For himself, though the motion went very far, he would not vote against a resolution he so much admired; on that account, merely, he would give it his vote to prove his approbation of the principle. The reason he should vote for it was also because it would still leave a power in gentlemen, when the bill came into the House, to move to strike out the part which they disapproved of. Seeing it within the power of the House, it could do no mischief in the shape of a resolution.

The question was then taken by yeas and nays, on the motion as originally proposed, and decided in the negative—yeas 11 nays 87, as follows:

YEAS—Willis Alston, George Baer, John Dennis, Thomas Evans, Benjamin Huger, Henry Lee, Abraham Nott, Josiah Parker, Leven Powell, George Thatcher, and Robert Williams.

NAYS—Theodorus Bailey, Bailey Bartlett, James A. Bayard, John Bird, Phaniel Bishop, Jonathan Brace, John Brown, Robert Brown, Samuel J. Cabell, Christopher G. Champlin, Gabriel Christie, William Charles Cole Claiborne, John Condit, William Cooper, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, Thomas T. Davis, John Dawson, George Dent, Joseph Dickinson, William Edmond, Joseph Eggleston, Lucas Elmendorf, Abiel Foster, John Fowler, Jonathan Freeman, Albert Gallatin, Henry Glen, Samuel Goode, Chauncey Goodrich, Elizur Goodrich, William Gordon, Edwin Gray, Andrew Gregg, Roger Griswold, John A. Hanna, Robert Goodloe Harper, Thomas Hartley, Joseph Heister, Archibald Henderson, William H. Hill, David Holmes, James H. Inlay, George Jackson, James Jones, Aaron Kitchell, John Wilkes Kittera, Silas Lee, Michael Leib, Samuel Lyman, Matthew Lyon, James Linn, Nathaniel Macon, John Marshall, Lewis R. Morris, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, Harrison G. Ouis, Robert Page, Jonas Platt, John Randolph, John Reed, John Rutledge, jr., Samuel Sewall, James Sheafe, William Shepard, John Smilie, Samuel Smith, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, John Chew Thomas, Richard Thomas, John Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Peleg Wadsworth, Robert Wahn, Lemuel Williams, and Henry Woods.

FRIDAY, January 24.

An engrossed bill to suspend part of the act, entitled "An act to augment the Army of the United States, and for other purposes," was read the third time and passed.

A petition of sundry inhabitants of the North-

western Territory between the Sciota and Little Miami rivers, was presented to the House and read, praying that a tract of land sufficient to erect and endow an academy, for the benefit of the settlers between the said rivers, may be granted by Congress.

Ordered, That the said petition be referred to the committee appointed, on the twenty-fourth ultimo, to inquire whether any, and, if any, what, alterations are necessary in the law providing for the sale of the lands of the United States Northwest of the Ohio.

Mr. HILL, from the committee to whom was referred, on the thirteenth instant, a motion for authorizing and directing the Secretary of State to procure and transmit to the Governor of the State of North Carolina, a number of the copies of the laws of the United States, made a report, in the words following, to wit:

"That the committee are informed by the Secretary of State that, in pursuance of the act mentioned in said resolution, he had transmitted to Wilmington, in the said State, the number of copies of the said laws directed by said act, for the use of citizens in North Carolina; that the same was there stored, and were all consumed in the fire which destroyed the town of Wilmington, The Secretary has further informed the committee, that he is possessed of a number of copies of the laws, equal to the supply proposed by said resolution: It is, therefore, the opinion of the committee that the following resolution ought to be adopted, to wit:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of State be, and he is hereby, authorized and directed to procure and transmit to the Governor of the State of North Carolina, a number of the copies of the laws of the United States, equal to the number which the Secretary was heretofore authorized to transmit to the Governor of the said State, by an act, entitled "An act for the more general promulgation of the laws of the United States," to be deposited and distributed agreeably to the provisions of the said act, for the use and information of the citizens of the United States within the said State.

The question was then taken that the House do agree to the said resolution, and resolved in the affirmative.

CASE OF MR. RANDOLPH.

The House proceeded to consider the report of the committee, made the twentieth instant, to whom was referred the Message of the President of the United States, together with a letter from JOHN RANDOLPH, Jr., a member of this House for the State of Virginia.

Mr. SMITH moved a recommitment of the report. He observed that he could not otherwise get at the report, which he considered a very extraordinary and improper one. He was of opinion that the committee had gone far beyond the line of their duty, and the instructions given to them. They had suffered themselves to make reflections on a gentleman who complained of a breach of privilege, and insult offered to him. They had reflected on that gentleman both for his mode of application and for the style he had used. He considered that every gentleman had a right to

address himself in what style he pleased, and he could not discover the authority by which that committee should censure it. Every man might not think proper to address the President in the way Mr. Randolph had done, but that could be no ground for reflecting on his peculiar mode of address. Considering the second paragraph of the report a deviation from their powers by the committee, he hoped the House were not disposed to sanction that impropriety.

After a few words from Mr. RUTLEDGE,

Mr. NICHOLAS said, as the committee had proceeded in the manner they had, if the House disapproved of their conduct, it would be necessary to recommit the report; for they had given many opinions unconnected with the resolutions submitted to the House, and, according to our rules, the resolutions alone are subject to alteration or amendment. For himself, he would say that he disapproved of almost every opinion the committee had given. He would beg leave to state his reasons at large for differing with them.

The House and committee appeared to have had but one opinion on the subject of the complaint being sufficient for our cognizance. The House, with the exception of Mr. Randolph himself, had determined on this principle when the President's Message was received, and the committee admit that the case would have been sufficient for the House to have acted upon, if the conduct of the officers in these instances, which were not of themselves equivocal, had not, as they say, been satisfactorily explained. The design of the actions charged on the officers is therefore the great object of inquiry.

Mr. N. said he could not conceive a clearer truth than that conduct towards a member of this House on account of the manner in which he has acted in it, calculated to provoke a quarrel and affray, ought to be considered in the same light as an immediate attack on his person; and yet he was very apprehensive that the decision of the committee on this admitted principle went to destroy it, and that, so far from giving security to the freedom of debate, it would go a great way towards its destruction.

In examining into the design of the conduct charged on the officers, Mr. N. said he would not trouble the House with a recital of all the testimony, as the course of the transaction must be fully in the recollection of members, although it contains throughout very strong evidence of the intention which is charged on them, but should confine himself to those circumstances which afforded positive evidence of the design to insult Mr. Randolph, and to put him under a necessity of representing their conduct.

Mr. Christie, who was, as Mr. N. understood, in a situation to hear more than any other gentleman present, except Mr. Van Rensselaer, whose deposition had not been taken, tells us that he was prevented from leaving the theatre by the strong impression which the conduct of the officers made on him before the particular facts he has stated took place; it convincing him that some riot would probably happen. He tells you that before they came into the box where Mr. Randolph and

the other members were sitting, he heard the words mercenaries and raggamuffins used, and heard somebody say to Captain McKnight and Lieutenant Reynolds, "he does not hear you; go nearer;" and that upon this they came into the box where Mr. Randolph sat and carried on constant conversation in the same style. If Mr. Christie deserves credit, what doubt can there be of the intention? Captain McKnight called out to Captain Taylor, in another box, "these are Virginia raggamuffins." Can there be any doubt that this was intended to irritate some person belonging to that State? Talking of the discipline of the men exhibited on the stage, one of the officers said, "these raggamuffins are not well drilled, but will be better by another session of Congress." Mr. N. said he should be glad to hear what gentlemen understand by this but a comment on the proceedings of this House, which was meant for the members present, and particularly the member who had used the term raggamuffin? To these positive proofs of intention he would add the impression made on gentlemen present. He perceived, indeed, that for some cause (he could not tell what, for he did not entertain a doubt that the opinion of the persons present was necessary and proper evidence in this case) the gentlemen had endeavored to avoid giving opinions; but the course of the transaction has disclosed their impressions as completely as they could have been expressed. We find them rallying round Mr. Randolph in expectation of outrage. It is the most indubitable evidence of opinion, that he acts in the way the opinion would require.

Mr. N. said it was here proper to remark on an omission in the committee, which had very probably lessened the amount of testimony, and which of itself, if there was no other reason for it, should induce the recommitment of this report; that was the want of a regular examination of Mr. Randolph under oath. We find in the papers presented a general statement from Mr. R. barely glancing at the transaction, not sworn to, and of course entitled only to the same degree of credit in the House, and the world, which will be given to the statements of Captain McKnight and Mr. Reynolds. He could hardly suppose the committee doubted of Mr. Randolph's competency as a witness, for a decision against his admission would establish that outrages on members when alone and unprotected should be exempt from punishment. He did not suppose there were any circumstances in this case which could be supposed to lessen the usual respectability of that gentleman's testimony, for he had, so far from soliciting the present investigation, shown himself decidedly opposed to the House commencing it, and he was a perfect stranger to the officers in question, except in the impressions they made on him in the instance to which his testimony would relate. It will appear, when Captain McKnight's information comes to be examined, that a more minute examination of Mr. Randolph was absolutely necessary.

The committee have said that the part of these officers' conduct which was not too equivocal to be acted on by the House has been satisfactorily explained. Mr. N. said he had looked in vain

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throughout the testimony for the explanation; he found neither contradiction of facts nor denial of intention. He would run over the statements of these officers and the evidences of their witnesses to show that they contained nothing material.

It was to be remarked that the statements of the officers themselves were not evidence in their favor, though they might be against them; but, admitting them to have the utmost force, they will be found to furnish great evidence of the truth of the charges; for they do not deny the truth of the actions themselves, or the intention which is inferred from them; they deny that they went to the theatre with the intention of insulting Mr. R.; this is by no means necessary to make them guilty, a design taken up then is quite equal; it is not even suspected that they did, for Mr. R. was at the theatre for the first time, and entirely by accident. The only fact denied by Captain McKnight is his rudely sitting down by Mr. R., which is proved by some of the gentlemen. But this is of little consequence. Captain McKnight speaks of an effort at leaving the box to clear himself a passage, and perhaps means this as an explanation of what Mr. Randolph considered as a jerk by his coat; but it is to be observed that he does not deny the act charged by Mr. Randolph. Here, Mr. N. said, may be observed the necessity of a more minute and authenticated examination of Mr. Randolph. The act charged by him and the one stated by Mr. McKnight (if it is at all to be considered as an explanation) are of such different natures that a witness could be at no loss in determining with certainty which it was. One circumstance was remarkable in Captain McKnight's statement: he must have been absent at the time of the debate on the army, and has given an account of the manner of filling up his time after his return till the affair at the theatre, so as to show that he could not have had any concert in this business; but Captain McKnight shows, by the constant repeated use of the words which fell from Mr. R. in the debate, that he had been fully charged with the subject before he went to the theatre; and yet his history of himself gives no account of this important occurrence.

Lieutenant Reynolds admits that Mr. Randolph was the subject of conversation while they were in the adjoining box, and that he had been pointed out to them—a very strong confirmation of Mr. Christie's testimony and of the design of insulting Mr. R. when they went into the box with him.

Mr. Thompson only proves that there could be no concert before going to the play; his testimony is negative in everything else.

Mr. Hurst proves nothing but that Mr. Randolph was the subject of conversation, and was pointed out while the officers sat in the other box.

Mr. Taylor proves nothing. He shows the manner of leaving the box, and that there was possibly occasion for Captain McKnight throwing himself forward; but does not pretend to have seen him so as to know that he did not take hold of Mr. Randolph. He says he knows of no concert. It will be proper to remark, once for all, that evidence of concert was not to be expected from

persons who formed part of the company of these officers. If the concert was made, and they, knowing it, gave their countenance to the execution even by their presence, they were to all events and purposes parties. The question, therefore, could not properly be asked of them, and voluntary testimony on the subject is entitled to no weight.

Mr. N. said again, that, after running over the statements and evidence, he could neither discover explanation by testimony nor denial by the parties. Under such circumstances he confessed he felt alarmed at the decision of the committee, which in his mind amounted to a declaration that as long as it was possible to doubt that actions like these were meant to produce a quarrel, they should meet no censure. It was the same as saying that insults, which must always partake of uncertainty, if there is any in the present case, should be the reward of our public labors.

But it is surprising, said Mr. N., that the same committee who have been found so incredulous with respect to the conduct of these officers, should have caught so eagerly at a supposed misconduct in Mr. Randolph. They have in general terms censured the style of Mr. Randolph's letter to the President. It were to be wished that they had shown in what its impropriety consists. He said he was utterly ignorant on such subjects; he knew of no standard for official communications. In all probability, persons writing to the President adopted styles suited to their object. Men who want places would use one; those who were in familiar friendship with him would use another; and so according to all the varieties of situation. He knew of nothing necessary but the decency which is to be observed throughout society, and he saw no violation of this. When gentlemen would be pleased to tell what they consider as censurable, it may be answered. It is but an ill omen to exhibit such anxiety about official address, and so much indifference to freedom of debate.

But Mr. R. is censured for betraying the privileges of the House, by calling on the President to defend them. It is to be observed that this is no denial of the power of the House to protect themselves. It might have proceeded from a principle, which I think correct, that the House should not take up questions of privilege but on great and important occasions. We take our prejudices on this subject from a country where there is a natural hostility between the departments of Government, and where, of course, an ever-waking jealousy is proper; but we have not the same necessity for being constantly on the watch. Nobody will deny that if an outrage is committed by the military the President ought to take notice of it, and it may well be presumed that if the present case was of a nature to demand punishment that the House would address the President on it. There is no doubt either that the President would think the case aggravated where an outrage was committed, by its being committed against a member for an act of duty here. If these things are admitted, Mr. Randolph's application only gives information of what the President's duty requires him to act on; and so the President himself thinks,

as appears by his Message to Congress. As well might it be said that if these officers had proceeded to a battery, it would have derogated from the rights of the House to have applied to the civil magistrate. The same act may be cognizable by different persons in different points of view, and it is no denial of the power of the other to, apply only to one. It is remarkable that the committee should be such sticklers for a power which they are so unwilling to use; that they should censure Mr. Randolph for not applying to the House, when they treat the case so lightly after they get possession of it. It would seem that they mean rather to acquire dominion than give protection, and that, by prohibiting applications to other departments, they would bring on complete subjection to the power here.

Mr. N. had stated his opinion fairly and honestly, and should conclude with repeating what he had said at first, that the committee were in no way warranted in making such a report. As it was the first instance of the kind, and had been attended with no serious consequences, as the officers were young men, who were probably ardent in support of their profession, he wished for nothing like punishment, or that more notice should be taken of it than would discourage such conduct in future.

Mr. BAYARD said, that the committee who had made the report then under consideration, had endeavored to execute with equal candor and fidelity, the unpleasant task which had been assigned to them. The subject was of the most delicate nature, involving the personal feelings of a member of the House, the privileges of this body, and the respect due to the first Magistrate of the United States. The committee had been the more embarrassed in being obliged to decide facts arising from evidence of different tendency, before they could form the conclusions contained in the report. Their industry had been unremitting in endeavoring to collect all the light which the testimony of witnesses could furnish.

When the committee had the depositions under consideration, it was very manifest that different gentlemen had seen with different eyes. The circumstances which had occurred, to some were wholly unsuspecting, to others were pregnant with designed insult. This was not remarkable, it was in the nature of things; circumstances naturally equivocal always enabled persons of different sentiments to draw various inferences. The committee had thought that in resting principally upon the facts stated, and discarding the coloring which arose from the impressions of different gentlemen they took the surest ground upon which their decision could be founded. He was confident that a liberal and accurate investigation of the testimony upon the principle stated, would maintain the propriety of the report which had been made.

The motion now before the House was to recommit the report. He would beg the attention of the House in considering the grounds on which the motion was supported. It was said that the committee had unjustifiably censured the style of

Mr. Randolph's letter to the President. It did not appear to him that the committee had done so. They had only expressed a regret that Mr. Randolph should have felt himself justifiable in departing from the usual forms of decorum observed in official communications. No one could doubt, but Mr. Randolph had departed from those forms. The committee did not undertake to say that Mr. Randolph on any other person had not a *right* to express themselves in the style they thought most eligible. But if the style adopted departed from that which was usual, the fact of departure and its tendencies became matter of observation. The fact in the present case was undeniable, and the committee had only expressed their regret. They did believe that the accustomed forms of civility, in official communications, were often useful in softening the harshness of discordant sentiments, and generally productive of conciliation and good will. Preserving, therefore, the approved usages of time, the precedents of our forefathers, they could not do less than regret an innovation which promised no good and destroyed what had been found beneficial.

It had been further said that the committee had transgressed their powers, in expressing any opinion on the style of Mr. Randolph's letter, because it was a matter not referred to them. The Message of the President, said Mr. B., was certainly referred; and in that Message the President has called the attention of the House, to the style of the letter as strongly as the respect which he owed to his own character would allow. Why should the President have noticed the style of the letter, if he had no intention of turning the attention of the House to it? As it was a subject of remark in the Message, and as the Message had been referred to the committee, they would have been wanting in the respect due to the Chief Magistrate if they had passed the matter over in silence. The committee certainly did not approve the style of the letter—they intended to be so understood, without having it supposed that they undertook to pass a censure. Upon the point in question Mr. Randolph had his opinion, which was to be collected from his letter. The committee had a different opinion, and they considered it a duty to express it. Mr. B. observed that he admitted the right which belonged to every one to employ the style which he preferred in the expression of his opinions, but still he might be allowed to remark, that where an individual undertook to discard the terms of respect which custom had long connected with office and station, it was difficult to avoid inferring something more than a negative intention. He had no wish to press this subject. The committee had passed it over as lightly as possible, and for his part he should leave it to the private reflections of the House.

It had been stated that the committee had neglected to obtain all the evidences in their power, and the name of Mr. Van Rensselaer had been mentioned as a material witness who had not been examined. It ought to be known that Mr. Van Rensselaer had left the city before the committee was appointed. And considering the impatience

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of the House as well as of the public to have the business brought before them, they would not have been excused had they delayed their report till the testimony of Mr. Van Rensselaer could have been obtained from Albany.

But it had been made a mighty objection, and relied on as sufficient for the recommitment, that Mr. Randolph's statement had not been taken under oath. This objection, he said, arose from want of information on the part of the gentleman who made it. Early in the business Mr. R. had been applied to, in the same manner as other gentlemen. From motives of delicacy Mr. R. had declined appearing as a witness in the affair. This expressly appeared from the statement which he had furnished. Mr. R. afterwards delivered in his statement. This was not till Saturday. It was the design of the committee to convert it into a deposition. For that purpose, on Monday, the Chairman searched for Mr. R. It happened that he did not find him. And it had been declared and was expected that the report would be made on that day. It was therefore a mere accident, not avoidable by the committee, that the statement did not appear in the form of an affidavit. On this subject, said Mr. B., the committee were not ignorant of the rules which should direct them. They knew that Mr. Randolph was a competent witness in the case. But he would take the liberty of remarking that he was at a loss to discover how the gentleman from Virginia, who had raised the objection, had been able to determine that the testimony of Mr. Randolph was competent; there was certainly no statute of the United States containing any provision on the subject. And according to the doctrine of that gentleman the common law was not the law of the land. From what source the gentleman had derived his opinion he was much at a loss to know. For his own part, he had no doubt on the point, because, believing in the existence of the common law, by its rules he discerned the competency of the testimony. He confessed he was curious to know on what ground the opinion of the gentleman from Virginia was built.

But, said Mr. B., the objection on this subject is easily removed. None of us had any doubt that Mr. Randolph would have sworn to the statement of facts which he made. We are now willing to allow it the weight of a deposition. He did not mean to question the truth of the statement. He should treat it with the same respect as if sanctioned by an oath. But there were few facts which were proved by it or any part of the evidence. It had been insisted on as a reason for recommitting the report, that in the manner it was framed the House were confined to the resolutions which were offered, and precluded from passing their opinions and sentiments, expressly, in the preamble by the committee. Mr. B. did not perceive the force of this objection; the sentiments alluded to were simply the sentiments of the committee, according to the common forms of proceeding—the House had nothing to do with them. They went out to the world only as the opinions of the committee, and were not supposed to have been

adopted by the House. The resolutions alone were the act of the House, and they were subject to modification. It certainly would be understood that the rest had no other ground than the judgment of the committee.

Mr. B. said he would now turn to another subject, and, following the example of the gentleman from Virginia, would enter into an examination of the evidence upon the table in order to ascertain how far it supported the report which had been made. He would first observe that he never had doubted, that it was a breach of privilege to offer any wrong or insult to a member for what he had said in his place, though it were done beyond the walls of the House. He believed that this doctrine was essential to the freedom of debate. But, in the present instance, his opinion had been determined by the case which resulted from the facts which had been proved. It had been urged that the opinions of the gentleman who were present at the occurrence at the theatre ought to have been considered as evidence by the committee. He differed from this opinion of the gentleman from Virginia. The impressions of those gentlemen were entitled to respect, but they could not prevent the natural inferences which the facts afforded. The committee were necessarily led to consider themselves in the nature of a judicial tribunal. Their inquiry was not explained. There was a justice due to the party accused as well as to the party complaining. The scales of justice are to be held with an impartial hand. Private sentiments and impressions existed on both sides and were very opposite. The committee therefore were driven to the facts of the case, as the only sure ground on which they could bottom their judgment.

Mr. B. said that certainly many circumstances occurred at the theatre which justified the suspicions of the gentlemen that an insult was intended to Mr. Randolph. Those circumstances however had been found capable of explanation, or so equivocal or trivial in their nature as not, in the opinion of the committee, to warrant the interference of the House.

Mr. B. said he would first take up the statement of Mr. Randolph, and he apprehended that upon a just examination it would be found to contain few material facts. He said the committee had certainly erred, unless they were justifiable in drawing a marked line of distinction between the knowledge which the witnesses had of facts and the inferences which they themselves had drawn from them. The minds of the gentlemen had manifestly been filled with suspicion, which had deeply tinctured their views of every occurrence which took place. He meant no censure upon the gentlemen; nothing was more common or more in the course of nature. But the committee had the more occasion to be guarded in order to avoid catching the same spirit.

The first fact stated by Mr. Randolph was "repeated allusions to what passed in the House of Representatives, during the debate of the preceding day, and a frequent repetition of some words which fell from him during the discussion." Mr.

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B. observed that it did not clearly appear that those words were repeated with a design to insult Mr. Randolph. The conduct of the officers had been unexceptionable till that part of the exhibition which introduced a procession of persons in the habit of Turks. The words ragamuffin and mercenary, to which the gentleman from Virginia had given currency, were then first made use of. The allusion was natural, and had not the aspect of premeditation. If the officers had harbored an intention to insult Mr. Randolph, they would hardly have waited for an occasion they probably did not know would arrive, and which was less calculated than any other to accomplish their object.

The words in question had derived so much importance from the use the gentleman had made of them, that they had become the common cant of every tavern and street in the town. He had heard them frequently applied, certainly not with a view to Mr. Randolph, but from some little spirit of humor. But, said Mr. B., a question will remain—supposing the words made use of, with all the aggravation attributed to them—whether they amount to a breach of privilege. This question perhaps involved considerations different from any imagined by the gentlemen opposed to him.

Were they prepared to say that words alone amounted to a breach of privilege? If so, he thought it somewhat strange that the House had so tamely endured the breaches of their privileges which for years past had been committed, in newspaper publications. Nothing was more notorious than that the words used by gentlemen in the course of debate, had been introduced into papers, and commented upon and villified in terms of the most slanderous abuse. Need he refer gentlemen to pages of the Aurora, stained with the blackest scandal? Need he cite from it instances in which his friend from South Carolina, and other gentlemen, having been so happy or so unfortunate as to express some strong ideas, their opinions and words were made for months and years the theme of invective and opprobrium? Were not the motives of gentlemen also frequently arraigned and blackened with whatever calumny or falsehood could invent? He was aware that some gentlemen would say that these publications were different in their nature from words used in the presence of a person. Certainly there was no difference in the intention of using them, and, as to the effect, it was more pernicious in the former than in the latter case. Words uttered perished in the expression of them, or remained only in the memory of a few persons, but words printed were durable, and, in the vehicle of a newspaper, were circulated far and wide. But at any rate the distinction alluded to could only exist in the case where words were so applied that an instant notice of them was unavoidable, which was not so in the present case. Mr. Randolph had with a very laudable discretion avoided the least notice of them. It might have been designed that he should hear them, but there was no principle which called upon him to notice them. Mr. B. could not discern the difference between the cases of words generally uttered with an intention they should be

heard, and words published with an intention they should be seen. The obligation to resent the affront, was not greater in one case than in the other. An extreme case might be put of words so applied as to leave no alternative but violence, and, if such had been the present case, he should have entertained an opinion different from that expressed in the report.

The next fact stated by Mr. Randolph is the act of Lieutenant Reynolds, suddenly dropping on the bench on which he was seated, in such a manner as to cause a concussion of their hips, and to occasion on his part a slight degree of pain. It would not be supposed that he meant to justify this conduct. In any point of view it was rude and inexcusable. But it could not be an object of much consideration with the committee, without being clearly combined with an intention to insult. Such an intention did not manifestly appear. Mr. Randolph himself was not assured of it. He did infer it, but with doubt, because there was no apology. If Mr. Randolph could not be certain as to the design, how was the committee to judge? Could they be more certain than the persons present at the occurrence? But it should be remembered where the affair happened. In a place where there was often a scramble for seats, and where the obligations of civility were not the most powerfully felt.

Another fact appears in the statement, that as Mr. Randolph left the box the cape of his coat was violently pulled. Mr. Randolph doubts whether this was done by Captain McKnight or Lieutenant Reynolds. Mr. B. said he would observe, that Mr. Randolph did not see the person who did this act. He had not stated that he saw the person. And it appeared from other evidence that the person was behind him. This act was brought home to nobody. From none of the evidence did it clearly appear by whom it was done. It was the opinion of the committee that without evidence very pointed and certain, they ought not to recommend the interposition of the House.

Mr. B. said, the serious and great ground of inquiry with the committee was, whether there had existed a premeditated design to insult. The investigation dispelled every suspicion on this subject. It manifestly appeared that whatever happened was the fruit of the occasion and of no design. But it had been alleged and strongly urged that the conduct of the officers was intended to provoke Mr. Randolph to some expression or act which would justify violence on their part. This idea was shown to be groundless, by what was stated by Mr. Randolph himself as well as by other gentlemen. In passing from the box, where the coat of Mr. Randolph was pulled, he applied to the person who pulled it the appellation of puppy, or, as stated by one gentleman, of "damned puppy." Was any notice taken of the expression? Did any one apply it to himself? Surely, if it had been done intentionally, and especially with the intention to provoke a quarrel, the person who did it had accomplished his object. What greater insult could there be, what better excuse for violence, than the ignominious appellation of damned puppy!

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Sir, said Mr. B., this is a powerful and governing circumstance in the present case. It shows how much suspicion existed, and how little fact. Circumstances trivial or unnoticed upon like occasions were upon this swelled into much importance by the designs supposed to be connected with them.

Mr. Randolph had used expressions in the course of debate which were known to have given great umbrage to the gentlemen of the same army. It might easily be suspected that young and indiscreet officers would think themselves not only allowed but bound to resent the affront. When two officers at the theatre were seen whispering to each other, and looking towards the box in which Mr. Randolph was seated, it was instantly concluded that there was an intention to insult him. He was confident that if the words which had given offence had never been made use of by Mr. Randolph that everything might have occurred which was proved to have passed, without the notice of any one. This induced the committee to a severer scrutiny of the evidence than they otherwise would have thought necessary. Whatever could be placed to the mere account of suspicion had no influence with them. They did not discredit the facts stated by any gentleman—they were implicitly admitted, but they certainly guarded against the coloring, which varied with the impressions of different persons.

Mr. B. said he would now pass to the deposition of Mr. Christie. In examining the details of it, he found much opinion, many impressions, and a great deal of belief, but on other facts than had already been noticed, and were contained in Mr. Randolph's statement. The looks and whispering of the officers had been sufficient to convince him of the intentions which they harbored. It was worth remarking that these officers had been several hours at the theatre before anything was observed. It was not till the procession of persons habited like Turks, that a word escaped them; the allusion then made to the words *mercenary* and *ragamuffin*, to which the gentleman from Virginia had given so much meaning and currency, seemed to have sprung from the occasion. If there had been any previous design to insult Mr. R. it was certainly strange that it should so long have remained dormant. It could not be supposed that the impetuous young men, stung with an insult which they felt degraded them, would have patiently waited for a moment which could have the least answered their purpose. Would it be imagined that with a direct design they would have proceeded in an equivocal manner! If it was their intention to insult, it must have been their wish to be understood. Instead, therefore, of waiting for an occasion when the fitness of their allusion would destroy its edge and give it the air of humor, they would have abruptly applied it, in such a manner and in such a way that but a single design could have been inferred.

Mr. Christie stated that he heard some one observe to the officers, "He does not hear you, go nearer to him." Who this person was, Mr. Christie did not know, nor had the committee been able

to learn. They could not therefore attach much importance to words used by an unknown person. It did not appear that the person was in concert with the officers, and to have allowed them to be affected by the words of a third person, with whom they were not connected, would have been against every principle of justice.

Another circumstance of the same kind was also mentioned by the same gentleman. Upon entering the lobby a stranger told him to keep close to Mr. R., because there was a design to insult him. This stranger was also unknown, and his opinions, without his reasons, could have little weight with the committee. There was little occasion for this opinion of the stranger, it was the opinion of Mr. Christie before, and he should not have allowed the opinion of a stranger to have more weight with him than the opinion of that gentleman. The circumstance was calculated to give the idea of some dark plot, but as such a thing, upon inquiry, was proved not to have existed, the circumstance lost all its strength.

It was further stated by Mr. Christie, that, in going down stairs, they were so closely pressed by Captain McKnight and others, that it was with difficulty he could keep his feet. Mr. B. said this was a strong instance of the effect of suspicion. Mr. C. turned about and requested Captain McKnight not to crowd, and he immediately desisted. Was this consistent with an intention to insult? It evidenced much civility on the part of the Captain. He was probably pressed himself, and upon the request of Mr. C. he took the weight off his shoulders upon his own. If Captain McKnight had pressed with an intention to offend, he must have designed to make himself known, or otherwise the offence could not have been applied to him, and his end could not have been answered. But the moment any such offence could have been produced, by its being known that he was pressing, upon a civil request he so civilly desists that no offence could have been taken at his conduct.

Mr. B. said he saw nothing in Mr. Christie's deposition to carry his opinion further than it had gone on the ground of Mr. Randolph's statement.

Mr. Nicholson's deposition, Mr. B. said, was extremely correct and candid, but it contained no additional facts which went to criminate the officers. There was one circumstance in the deposition on which he should remark, which strongly supported the general reasoning of the committee. Mr. Nicholson stated that during the performance of the afterpiece, he was called out by Captain Campbell Smith, who informed him that he understood Mr. Randolph had been insulted, and inquired if he had heard anything about it; and observed that Mr. R.'s observations in Congress had been the cause. Mr. N. told him he had heard nothing of it, and asked what kind of insult had been offered. He answered he was not present, but apprehended disagreeable consequences. In fact, at this time, nothing had happened, but rumor had mounted her stalking-horse and carried the report through the theatre, of an actual insult having been offered. From this moment jealousy was awakened, and the intention to insult soon

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discovered. It was then that every whisper, every look, and every action, gave the impression of hostile intentions. The eye became jaundiced and every object was colored accordingly. He was inclined to believe that if no report had ever been brought to the box, of an insult having been offered to Mr. R., that no insult would have been observed. A circumstance stated by Mr. N. was supposed to carry some proof with it, of Captain McKnight having pulled the coat of Mr. Randolph in passing out of the box. Mr. N. stated that he saw the Captain throw his body forward about the time he heard Mr. Randolph say some one had pulled his coat. As to the fact, it was only a matter of inference that Captain McKnight was the person who pulled the coat of Mr. Randolph, for no one saw it. But even supposing it to have been him, the circumstance was innocently accounted for by what was stated in Captain Taylor's deposition. In going out of the box Captain McKnight had hold of Captain Taylor's arm. Some one, in order to aid himself in rising, pulled Captain Taylor so violently as to break the hold of Captain McKnight. It might well have happened that Captain McKnight in order to save himself from falling, in throwing out his hand, might unluckily have caught hold of Mr. Randolph. Mr. B. said that in his opinion in a case of this kind every explanation ought to be allowed, where there was an equal probability of its being true. To infer a criminal design from an action which was equally capable of innocent construction, was against the common principles of justice.

Mr. B. said the deposition of Mr. Macon was very candid. It could not be necessary for him to go through it, as it was in the hands of gentlemen, and they would observe that it contained no circumstances on which he had not already commented. He would only observe that Mr. Macon had with much propriety avoided giving his *impressions* as evidence; and, simply stating facts, had left the conclusion to those whose business it was to judge.

He next called the attention of the committee to the deposition of Mr. Glen, a member of this House. Though Mr. G. was in the same box with the other gentlemen, yet as he had no reason to suspect anything, he neither heard nor saw anything which bore the appearance of an insult. He should be allowed to remark, what the knowledge of every gentleman would confirm, that the color of objects depends so much upon that medium of sensibility through which we see them, that the impressions of a witness whose feelings had been strongly excited by an event which was passing, ought to be received with great caution and weighed with much precision. Upon this principle the committee had been guarded, not considering themselves as a party in the business, but in nature of a tribunal which was to do justice, they governed themselves by the same rules as in like cases were observed by the criminal courts of the country.

It had been expected that very material information could have been obtained from Captain Smith. But on his examination before the committee it was found, and so appeared by his depo-

sition, that though he frequently saw the gentleman accused, he observed nothing exceptionable in their conduct. He repeatedly saw them in the box, and though he had heard the report which had been circulated, he could discover nothing in the demeanor of the officers which confirmed it.

Mr. B. said that if any proof was wanting on the subject it was fully established by the depositions of Captain Taylor and Lieutenant Thompson, that no scheme had been concerted to offer an insult to Mr. Randolph. The attention of the committee had been strongly directed to this point. Had anything like premeditation appeared, a very different construction would have been put upon the occurrences of the evening. In such a case the affair would have had much importance, and the committee would have been forward in calling for the vengeance of the House. But they could not be induced, by a few accidental and equivocal circumstances, to call into action the high powers of the great National Legislature.

Mr. B. said, that he was now done with the evidence, but he should beg the indulgence of the House while he replied to the remarks of the gentleman from Virginia, as to the censure which he said the report contained on the conduct of Mr. Randolph. It was said that the committee had censured Mr. R. for applying to the President for redress, and not appealing to the House on the ground of a breach of privilege. Mr. B. said that if the report was examined, it would be found that the committee had given an express opinion, that it was not the intention of Mr. R. to infringe the privileges of the House in his application to the President. In denying an improper intention, it could not be supposed to have been the view of the committee to cast much censure. No, sir, said Mr. B., our object was of much greater importance. We observed, universally, a dangerous precedent set, which vitally affected the powers and existence of this body.

He was astonished to hear the application to the Executive in such a case justified by the gentleman from Virginia. Nothing could be more fallacious than the ground he had taken. The gentleman said Mr. Randolph had a choice of remedies. The President had a power over the officers, and he might be called upon to exercise it without any infringement of the powers of this House. To illustrate his arguments, he supposed the case of an assault and battery having been committed, and asked if recourse might not have been had to the civil authority. Sir, said Mr. B., upon the case put, I have no doubt, the civil magistrate might certainly be applied to, but the great question is as to the ground on which that magistrate could punish. He could punish the breach of the peace, but could he punish the breach of privilege? An application to the civil magistrate to punish a breach of the privileges of this House would, equally with an application to the President, derogate from the rights of the House. The question therefore was, whether the application to the President in this case, was not on the ground of a breach of the privileges of the House. The consideration of this point obliged him to refer to Mr.

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Randolph's letter to the President. It was dated in the Chamber of the Representatives, and is expressly addressed by Mr. Randolph, officially, to the President in his official character.

He states, that, "for words of a general nature uttered on the floor of this House, and addressed in my official capacity to the Chairman of the Committee of the Whole, and urged with a view to effect the reduction of a Military Establishment, I have been grossly and publicly insulted by two officers" &c. Again, "so far as they (speaking of the motives of his conduct) relate to this application, addressed to you in a public capacity, they can only be supposed by you to be of a public nature; and it is enough for me to state that the independence of the Legislature has been attacked, the majesty of the people, of which you are the principal representative, insulted, and your authority contemned. In their name, I demand that a provision commensurate with the evil be made, and which will be calculated to deter others from any future attempt to introduce the reign of terror into our country."

It was impossible, Mr. B. said, to state a more explicit application for the punishment of a breach of privilege. The complaint was of an insult offered for words spoken in his place on the floor of this House. He distinguishes the very ground of complaint to be the attack on the independence of the Legislature. He disavows any personal consideration. And he demands of the President to make a provision commensurate with the evil. What was the evil stated? A direct, flagrant breach of the privileges of the House. Were not gentlemen startled at seeing the Executive applied to, to protect the privileges chiefly designed as a barrier against Executive power, and would they be disposed to throw them at the feet of the Executive. Sir, said Mr. B., if a series of precedents were permitted to establish that the Executive Magistrate was the power to be applied to when the privileges of the House were violated, there would be an end of the safety and independence of the Legislature.

Let me show, said he, the impropriety of this application by referring to the parties which exist in the country. The one is supposed to support and the other to oppose the Executive. If we depended, sir, on Executive good will, could opposition expect equal and impartial protection? Could they apply with confidence to that Executive for protection, to whom they always deny their support? But no gentleman could hesitate on the subject—the point went to the very existence of the Legislature.

Mr. BAYARD concluded with observing, that he trusted the House would be persuaded, that the committee had made the proper inferences from the testimony before them, and that they had gone no further in the expression of their opinions relative to the conduct of the gentleman from Virginia, than they were bound to do in the discharge of an incumbent and indispensable duty.

Mr. DAVIS said, since he had the honor of a seat in that House, he had ever possessed a desire and a determination to support the dignity of the

House, and while he possessed this, he could not be unmindful of the privileges of a member freely to deliver his sentiments on this floor, without being amenable to any one. This being the case, he could not agree with the report of the committee; he did not consider the committee authorized to make a report upon the subject of Mr. Randolph's conduct; but even allowing, for the sake of argument, that they were, he could not see any grounds for the report they had made, in any part but one, that was, in their expression of a sense of the propriety of the conduct of the President in referring the subject to the House.

With respect to the style of Mr. Randolph's letter to the President, the committee were not at all authorized to draw those inferences from it which they had done. As was observed before, gentlemen had different modes of writing. If he was to address a letter to the President, Mr. D. said, he most likely should not write in the style that gentleman had done—indeed he believed he could not write in that style, but he knew nothing in it which could give offence: no doubt the gentleman endeavored to convey his ideas in his own language; to be sure it was not in a courtly language, nor did he know of any in the United States. As, therefore, there was no particular mode of address, no gentleman could merit censure for writing in that which was most familiar with his own judgment of propriety. Mr. D. here referred to the language used by the President in his answer to an address from Bath County, Virginia, in the following words: "It rests with Virginia to say whether there does not exist in her a faction that must be humbled in dust and ashes before the indignant frown of an injured and insulted country." Mr. D. said he left gentlemen to draw the comparison between these sentiments and Mr. Randolph's letter; he only made this reference to show that men had their own manner of writing.

He conceived the application of Mr. Randolph to the President did not merit censure, but the report of the committee had given it. The gentleman certainly was justifiable in making appeal to the President if he thought proper, although the House had also a jurisdiction over it in a certain degree. That gentleman applied to the President as Commander-in-Chief of the Army, and in that view it was certainly proper. Suppose the conduct of these gentlemen of the army had been more serious, and they had actually assaulted Mr. Randolph; by an application to this House for justice as a breach of privilege, all the House could do was to order fine and imprisonment, and the officers would retain their situation in the army; but the President had power to order a court martial to try them, and divest them of their commissions, if found guilty of the assault complained of. From this view of the subject Mr. D. believed the most regular way would have been to have applied to the House as well as to the President.

He could not subscribe to the opinion uttered by the committee, that this (what Mr. Randolph and others thought) premeditated insult towards

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him, was explained away. That the insult was designed, was the decided opinion of several gentlemen, as well as Mr. Randolph. But who could have satisfactorily explained it, except the gentlemen themselves had done so? What other evidence had the committee to warrant them to differ in their opinion from that of those respectable evidences which were produced? Was not the evidence of Messrs. Christie, Nicholson, and Macon, (under a solemn oath,) of more importance, and much better testimony than the mere declarations of those men who were implicated, and who could not be under oath? It was not to be expected that they would criminate themselves, and all they had to do was to deny the facts which were charged; candor was not to be expected from them. In his opinion, Mr. D. said, the weight of evidence against these men was very considerable, and merited the particular attention of the House. He also believed the report of the committee to be very improper, and also meriting attention. He supposed no gentleman would deny the right of free discussion in the House, and the inviolability of the members from personal insult on account of sentiments delivered there; and that members should not be overawed so as to intimidate them in discharging their public duty; this he believed was an indisputable principle.

In order to corroborate the opinion, that the report of the committee was very improper, it was necessary to consider the subject in two points of view. First, to inquire whether Mr. Randolph did believe he was insulted on account of what he had said in the House, and secondly, whether there was good ground for the House to believe the insult was premeditated. That Mr. Randolph believed so, appeared from his own declaration, and in this the committee coincided; they thought that he believed so. The report must appear improper, because, admitting Mr. Randolph thought it was aimed at him for his conduct in the House, it might deter him from using that liberty of free discussion in the House which the Constitution had clothed him with. Though he did not receive any material personal injury, he could not help revolving in his own mind the circumstances of the insult and the view the committee had of it, and that if he should suffer himself again to express the sensations of his heart, he would be alike insulted and alike disregarded in his complaint. These were certainly very discouraging considerations.

That there was an insult offered to Mr. Randolph, appeared to be conceded, and Mr. D. said he thought there was good ground for saying the insult was premeditated. The *design*, on which hung the criminality of the action, he thought the evidence fully established. It might not have entered their ideas until after they had got to the theatre, but that it was premeditated at some time previous to its execution, and that there was a combination, he conceived well proved from the impressions the conduct of these young men made on the different gentlemen who gave testimony. The gentleman from Delaware had said that suspicion outstript the facts. It might be so, but how did it happen that, besides Mr. Randolph himself,

several gentlemen should fall into the same opinion that it was designed by them to insult Mr. Randolph? There certainly was a design, which gave existence to some actions from which to draw these inferences. There certainly must be reality in these suspicions, and the gentleman might as well have said that the revolution of seasons and the daily rising and setting sun was the effect of mere accident, as to say this circumstance originated in accident.

Was it by accident, Mr. D. asked, that they repeated the words "ragamuffin" and mercenary? Was it by accident one said, "go nearer to him, he don't hear you?" Was it by accident one of them forcibly pressed himself into what he knew was not a vacant seat, by the side of Mr. Randolph, and which very much incommoded him? The gentleman said it was by accident that Mr. McKnight caught hold of Mr. Randolph's coat, and that it was merely to support himself. Did this appear probable? If it had been merely an effort to recover himself, when jostled, would he not have taken hold of some person more able to support him? He certainly could not promise himself much support from Mr. Randolph.

But, said the gentleman, they had opportunity, if their design was to aggravate to a rupture, to have done it when Mr. Randolph called the person, who pulled his coat "a puppy." No; Mr. D. thought it the very reverse. He had no doubt but McKnight laid hold of that gentleman with a view of pulling him down and trampling him down by the crowd, and that Mr. Randolph's calling out as he did, deterred him from renewing his efforts to carry it into execution.

Without entering into the evidence (which he conceived must bring conviction to the mind) Mr. D. said he had adduced these few reasons for his vote in favor of a recommitment, because he was certain some unjust censures were put upon Mr. Randolph and because he did not conceive the officers clothed with that innocence which the report stated. There was one part, as he observed before, and one only, of the report which he approved, and that was the respectful sense entertained by the House of the conduct of the President in submitting it to the consideration of the House, as a breach of privilege. To this resolution he should heartily agree.

Mr. JONES said he rose, as one of the committee who made the report, to show his reasons for differing from a majority of that committee, and why he should vote for recommitting the report. It had been stated, and he believed consistently with the rules of the House, that the reasoning upon which was founded any resolutions reported by a committee was not a subject of deliberation in the House, and therefore was not capable of amendment or alteration there. It was because he thought the deductions were not warranted by the facts, in the present instance, that the report did not meet his approbation; he wished the report to be recommitteed, in order that the exceptionable parts of the preamble might undergo some modification; and not to go abroad as an act of the House in its present shape and tenor.

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Mr. J. said he should now state the particular paragraphs of the report to which he objected. The first related to the style of Mr. Randolph's letter to the President. He did not consider this subject as referred to the committee at all. Indeed it was admitted in the committee that it was not directly referred to them, but it was contended that it was referred indirectly. He differed from that opinion, and thought he was warranted by the letter of the President. The notice the President took of the style of Mr. Randolph's letter, he supposed intended only to intimate his sense of it, without desiring any proceedings thereon. The President writes thus, "I have thought proper to submit the whole letter and its tendencies to your consideration;" that is, the import and drift of the letter; and takes occasion to subjoin, "without any other comments on its matter or style." From which it appeared plain that the letter and its tendencies were the only objects submitted and which he wished to be acted upon. The mention of its style was only intended as a retort. Mr. J. did not believe the President wished the House to interpose in support of that respectful demeanor to him which his station demanded, and which he knew how to preserve.

The letter alluded to was objected to and censured as disrespectful, and although, Mr. J. said, he had called upon the members of the committee who were in favor of the report to point out the objectionable expressions, or to show the proper mode of redress, yet they had not done it, nor had the gentleman from Delaware on Friday, in his long and able defence of the committee, thought proper to do it. He thought it but reasonable and proper that if any gentleman had, and expressed objections, he should point out the grounds of them, otherwise it would naturally be thought that they are not tenable. If it was in the style only, Mr. J. said, he knew of no other particular style in which the President ought to be addressed, and therefore no particular style, if decent, could be justly complained of. Considering it as not a part of the duty of the committee, he considered it an unnecessary and improper extension of their powers to take it up.

The next paragraph Mr. J. objected to was the fourth, where the committee had censured Mr. R. for his application to the President, and had declared the subject exclusively cognizable in this House, and that Mr. Randolph's conduct was derogatory from the rights of the House.

He did not consider a gentleman as forfeiting his citizenship when he took a seat in that House, nor less entitled to the protection of the law. He therefore thought, that though Mr. Randolph might have appealed to the House, he could appeal to the President without acting derogatory to the rules or privileges of the Legislature. He certainly was justifiable, knowing the disagreeable consequences the agitation of such a question in the House must produce. Suppose an assault had been committed, it would have then been cognizable in a court of law; if the gentleman had taken that mode of redress, instead of agitating the House, would he not have been commendable, and

would that alternative have been derogatory to the rights of the House?

It was allowed that the application to the President might have been proper if he had not come forward upon the score of privilege, to obtain redress for an insult as a member of Congress. Suppose he had applied, in case of assault, to a court of law. It would have been incumbent on him to state the causes for the assault; that the resentment arose from the use of words in debate, which disobliged the persons charged. Surely that would not exclude him from proper redress! To bring the point nearer to view, let us imagine another case—I mean no disparagement in the comparison. Suppose a common soldier had insulted a member of Congress for any part of his public conduct, would he not conceive that his commanding officer if a man of sense and discretion would give that redress which would be satisfactory? He would therefore, apply to the captain, who was vested with authority sufficient for that purpose by the rules and articles of war. No gentleman would say but it would be a preferable mode to taking it up upon the serious ground of a question of privilege, although he possessed the power and in his discretion might make that appeal. So in the present circumstance, the President, as Commander-in-Chief had power over the military, he gave the officers their commissions, and might take them away if he was convinced of the propriety of it. The gentleman was certainly right, therefore, in taking that course in preference to the other disagreeable alternative. Nay, the President himself knew that he possessed a cognizance of the affair, and therefore he had informed the House that he had directed inquiry to be made into it by the proper officers, and there was no doubt but he would give the proper redress.

The next part of the report, Mr. J. took notice of, was the opinion expressed by the committee on the facts and testimony which had come before them, which they had said were either satisfactorily explained or too equivocal to merit attention. If the members of Congress were entitled to any kind of protection in their public conduct and expressions on the floor of the House, he should be glad to know how it was that words or actions, which tended to produce quarrels and provoke retort on account of that public conduct, could be so explained as not to be a breach of privilege. Where is the efficacy or the value of privilege if a member should be compelled to be the butt and ridicule of the company, if he appears at any place of public entertainment? Agreeably to the opinion of the committee, gentlemen must bear the taunts and railery of every one who may find occasion to be displeased at any part of their conduct in the House, so that it did not amount to actual assault! But that was not the common mode of interpreting actions. Among gentlemen, the intention was the criterion by which to judge of an insult. No matter how vague or indirect, no matter how equivocal the circumstances were, if the intention was to insult, the conduct would be noticed and resented. So in the present case, as it was in his opinion clear, Mr. J. said, that

the intention was to insult Mr. Randolph for his public conduct, the House were as much bound to notice it as though the offence was the most palpable.

Surely no man could mistake the intention of these officers; it was clearly to wound the feelings of Mr. Randolph. Nay, this was admitted by gentlemen, but to exculpate them it was said that no premeditated intention was discovered. If it was proved, that no intention was formed previous to their going into the theatre, he was willing so to believe; but if it was proved to have been their design but one moment previous to using the words, it possessed the properties of premeditation, and the gentleman was entitled to redress upon the score of privilege. The gentleman from Delaware admitted that if the circumstances were as stated, and the design could be proved, it would be entitled to redress on the score of privilege. Mr. J. conceived the facts were clearly made out. Where could there be facts more clearly demonstrated and charges more fully substantiated than those contained in the letter of Mr. Randolph to the chairman of the committee? That gentleman's opinion was, that they made use of certain words repeatedly, with the design of producing a quarrel; the gentleman charged acknowledged that they did frequently make use of the words. Who that was acquainted with the previous proceeding in the House could doubt but it was meant to apply to Mr. Randolph? Where would have been the merit or what the end of making use of them if Mr. Randolph had not been there? Indeed their use of the words "Virginia ragamuffins," must clearly ascertain their application to a gentleman from that State, and the repetition of the words so frequently, so near him, could leave no room to doubt but they were meant to apply to Mr. Randolph.

The act of taking Mr. Randolph by the coat after he went out of the box, Mr. J. said, appeared to him to have been done by Captain McKnight. Indeed that gentleman only denied sitting down by Mr. Randolph; and his not denying the other act charged in Mr. R.'s statement, was a confession of it. Captain Taylor had given testimony that he believed Captain McKnight laid hold of somebody's shoulder, as he went out of the box. Notwithstanding the gentleman from Delaware said that Captain McKnight was in advance of Mr. Randolph, yet it appeared from the evidence of Mr. Taylor and Mr. Thompson that he passed that gentleman just at the moment Mr. Randolph exclaimed "Who was it that jerked my coat?" and from their evidence it was very probable that he was the person. However, to put this matter beyond a doubt, it was confessed by Captain McKnight himself—he said before, the committee that he was the man who laid his hand on Mr. R.'s shoulder, but he did it gently, and with moderation.

Mr. HARPER asked if this was admitted as testimony, and if not whether it was properly mentioned to the House?

Mr. JONES said he was only identifying the fact that this was the man who took hold of Mr.

Randolph. It was not admitted as testimony to the committee, because it was said by some of the members of the committee that it would be wrong to ask a man to give testimony against himself. Mr. J. said he thought so, but it was voluntarily given, and as such in his opinion ought to have been produced to the House.

Mr. HARPER again appealed to the point of order.

Mr. JONES said he had explained what the gentleman said with truth and candor, and not to injure the gentleman; he was going on to relate that Captain McKnight said he did not do it to insult Mr. R., he wished to give him full justice in this case, but he should always make known everything that would display truth, however displeasing to any gentleman.

Mr. NICHOLAS appealed to the Chair, whether it was proper for the House to suppress facts merely because a majority of a committee should not choose to produce them. He thought it was proper to obtain every information necessary, although the committee had not produced it.

The SPEAKER said that the report of the committee contained the evidence which came before them; if that was fairly taken, it was laid before the House as evidence to guide the House. It was fairly taken unless there could be a charge substantiated before the House that the committee had omitted material evidence. Unless, therefore, the charge should be made good, it was the opinion of the Chair that it was not proper for admission.

Mr. JONES confessed that he did not urge the necessity of taking this evidence, because he considered the same fact fully substantiated without it, and should not now have noticed this fact if the gentleman from Delaware had not said it was doubtful who was the man that took hold of Mr. Randolph. The gentleman from Delaware admitted that the persons charged used the words referred to, and that repeatedly, and with intention to wound the feelings of Mr. R.; yet he would not admit that the House ought to act on it.

Mr. J. begged gentlemen to reflect on the consequences if this doctrine should prevail. If words were allowed to be used to produce irritation on account of the public conduct of any gentleman, and with intent to wound his feelings, if no protection was to be had in the House against such treatment, the right of privilege, under which it was pretended members were protected, would be insignificant. If members must bear the mockery of disappointed or disaffected men for what they said in that House, the boasted freedom of debate must be considered as a nullity. Personal abuse was much less to be dreaded, in his opinion, than to be exposed in every company to aggravations of that sort.

In order to soften down this conduct, the gentleman had pointed out the manner in which the public prints treated gentlemen for their expressions used in the House. Surely this was a very inapt comparison. These anonymous publications were not entitled to notice, and gentlemen were justified in disregarding them. But many

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things said in a newspaper were totally disregarded, which, if said to a gentleman's face, would not be passed over. These publications were not calculated to produce irritation and violence, or to provoke men to quarrels, but were sent abroad to create amusement, and no harm was produced by them; and when they had evil tendencies, were punishable by law. But the manner of using these words, when connected with the subsequent conduct, must produce a very different effect.

Mr. J. then proceeded to take a view of that part of the report of the committee which stated some facts to be too equivocal to justify the interference of that House on the ground of a breach of privilege, and others as satisfactorily explained.

He did agree with the committee that this was not so flagrant a case as to require the House going into the solemn question of privilege. He wished the whole question to be avoided. But when he said that, he did not mean to say that the whole amount of these facts did not constitute what was so termed; because this would appear too much like pointing out the line to which a person might go towards insulting a member of the House, and where to stop, with safety. He did not suppose there was any attack premeditated, in the present case, nor any design to step on the privileges of the House; but finding a member of Congress at the theatre, who had used words not very pleasing to their profession, they had indulged themselves in imprudent conduct. From these considerations he had been and still was willing to pass it over as lightly as possible. But, while he would thus lightly look over this improper conduct in the officers, he would never agree to reprehend and pass a censure on the gentleman who had been ill treated; for this, instead of saying to gentlemen, "You shall be protected in all your conduct on this floor," would be to say, "If you charge any man with insulting you, you will meet our severe censure." This language being held out, would deter gentlemen from appealing to the House, and tend to make the members of Congress amenable to every listener, and subject to their scoffs in every company, or compel them to have recourse to another mode of redress.

The gentleman from Delaware had supposed that if the intention of these officers had been to produce a quarrel, they had a fair opening when Mr. Randolph used the word *puppy* to the person who pulled his coat. This argument must fall, Mr. J. said, when it was considered that it appeared from the affidavits of Captain Taylor and others that Captain McKnight did not hear these words used, and therefore they could not have produced that effect.

There could be no doubt but these gentlemen's feelings were wounded in the expressions applied to the Army by Mr. Randolph, in the House, and there can be as little doubt but they intended to wound his feelings in return, by their repetition of them; and, from the aggregate of their conduct, probably they wished to create a quarrel. They must have known their conduct was irritating. That impression was made on a number of gentlemen present. It had spread further; a rumor

had gone abroad in the theatre that an insult was given to that gentleman, and apprehensions were formed that evil consequences would ensue. It was therefore not to be wondered that some of Mr. Randolph's friends should have taken that impression.

Mr. J. hoped it was the intention of the House to protect every member in the exercise of his rights, in the freedom of debate, and to afford ample redress in cases of insult. But, as he observed before, he wished not, in the present case, to carry into execution the full powers which the House possessed; he wished rather an expression of disapprobation of the conduct of the officers, as of a matter not of that magnitude to demand punishment. But why the member who made the appeal should meet a censure worse than the offenders he could not conceive; and therefore hoped the report would be recommitted, and undergo an alteration, before it filled a place in the proceedings of the House.

When Mr. J. had concluded, an adjournment being called for,

The House adjourned till Monday.

MONDAY, January 27.

THOMAS PINCKNEY, from South Carolina, appeared, produced his credentials, was qualified, and took his seat in the House.

On motion, it was

Resolved, That the order for a call of the House this day, be dispensed with, and that there be a call of the House to-morrow, at two o'clock.

On motion, it was

Ordered, That the third reading of the bill to establish an uniform system of bankruptcy throughout the United States, be suspended until to-morrow.

CASE OF MR. RANDOLPH.

The House resumed the consideration of the report of the committee to whom was referred the Message from the President of the United States, together with a letter from John Randolph, Jr., a member of this House from the State of Virginia.

Mr. CHRISTIE said, that having obeyed the command of the House in the testimony he had given, he hoped to have been permitted to give a silent vote on every question which might come before the House on the present subject; but the conduct of the gentleman from Delaware, on Friday, had obliged him to deviate from that determination in rising upon what must be very disagreeable, a justification of his own deposition. He could not have apprehended the gentleman would have made so wanton an attack on the deposition of any man whom he had no reason to believe would deviate from fact. The gentleman was pleased to say that he (Mr. C.) was so fortunate as to see more and hear more than any one else who was in the same situation. Mr. C. said he considered himself rather unfortunate in knowing and seeing so much. But although his deposition contained so much of the transactions of that evening, yet the gentleman from Delaware appeared

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to be much the best pleased with the depositions of gentlemen who saw the least of it!

In the gentleman's examination of the evidence, he appeared more like the county-court lawyer, whose business was to make the worst appear in the best light, and to reduce the most important testimony to nothing, than as an honorable member of the National Legislature, where the strictest impartiality should mark his conduct, and where no impressions should be formed but from a just view of evidence.

Farther, he has charged me, indirectly, said Mr. C., with a want of candor in my deposition. He has said of the other gentlemen, that there was much candor in their testimony. What is there in my testimony to deprive me of the same approbation? I did not wish him to commend my testimony, because his approbation would not make it the more truth; but I think he might have placed mine in the same situation he placed others. The encouragement he has taken to draw these insinuations is, my having introduced my suspicions with my evidence. This appeared to me a case of absolute necessity. There were many little circumstances that could not well be introduced into an affidavit. I endeavored to give my opinion from my real impressions; I am sure I have done it with candor, whatever that gentleman may insinuate. I have not misstated a single circumstance that came under my observation. I had my suspicions awakened, and therefore I did not go away as I had intended. Why were these impressions made? I will relate one particular ground. In the course of the morning, in a company of some officers and other gentlemen, the conversation turned up about the gentleman from Virginia (Mr. Randolph;) some of the officers said he ought to have his neck broke; that the officers ought to be picked out, one by one, till they had killed him. Having heard this, and perceiving and hearing what I did at the theatre in the evening, my suspicions were naturally awakened; I thought it my duty to prevent mischief if possible. I did not attend at all to the play, but paid particular attention to every word and every action which transpired between these officers. This was one reason why I was so fortunate as to know more than others.

Farther, the gentleman says that I have stated no facts. What he thinks are facts I cannot say, but I will submit to the consideration of the House what I call facts. I saw the officers there. That is one fact. I saw them look toward our box. That is another fact. Another is, I heard one of them say, after using the words *ragamuffin* and *mercenary*, "he does not hear you, go nearer to him." I heard this perfectly plain, and this the more awakened my observation, because I could not mistake Mr. Randolph to be the object of their ridicule. But the gentleman supposes I was mistaken in another fact; that of Capt. McKnight's sitting beside Mr. Randolph. What evidence has he that I am mistaken? None but the bare assertion of that gentleman himself. I am sure of the circumstance. I saw him sit down; he touched my elbow in sitting down, and made a slight apology

with his head for so doing. I rather think the gentleman wants candor himself, or he would never scrutinize my testimony with so suspicious an eye, when he has no ground for so doing.

I was not the only person who was so fortunate as to receive impressions that an insult was intended; other gentlemen who had less occasion, thought the same. I marked every transaction—I will remember their words; it is impossible that I should be mistaken in either. That gentleman might have his reasons for so speaking of my testimony, for aught I know, but certainly he treated it as neither candid nor honest. I could not be insensible of his harsh treatment of my testimony, particularly when he spoke of the candor of every other gentleman.

I do not think the committee obtained all the information they could have procured. I did expect that they would have asked Captain Smith who the gentleman was that gave him the information of his apprehensions about the conduct of these officers. I must confess, had I been on the committee, I should have put the question. The gentleman was in town, he had been in the box; there can be no doubt but he could have given some important evidence, but this they neglected to obtain.

As I believe the report of the committee conveys an unjust censure on Mr. Randolph, and as I think it can be reported in a manner much more acceptable to a majority of this House if recommended, I shall therefore vote in favor of the motion.

Mr. SEWALL, having been a member of the committee, and having fully concurred in the report, considered it his duty to show the inquiries and reasons which led him to a concurrence with the committee, and would induce him to vote against the motion now before the House. It appeared to him necessary to express some cautions to gentlemen on this occasion.

The House were now sitting as judges upon the conduct of their fellow-citizens who were not members of the House; they were now judging in a case in which the feelings of gentlemen must necessarily make them a party; they were called upon to defend the privileges of the House, in which they were judges from the necessity of the case, with a power to determine the nature of the offence, the punishment of it, and the degree of punishment to be inflicted. In this situation it became proper for gentlemen to divest themselves of resentment, which the supposed injury to themselves would excite, as much as possible; of their sympathy with the accuser, who has been more immediately affected; and rather to take the place of the persons accused; to consider what were the natural and allowable feelings to which officers of the army must be excited on hearing of the expressions which had been made use of by the gentleman from Virginia on the floor of the House, unnecessarily, and without any occasion from the debate in which they were uttered. The words, if not peculiarly applied to them, respected their profession and the reputation of the service in which they had engaged; and if they thought proper to pass about, in the way of jest, the words by which

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they had been hurt, surely it could not be necessary for the House to pursue this as a breach of privilege. Whether the words were repeated in the street or at the playhouse, if, scattered in the air, they should reach the ears of the persons who gave them birth, ought he to feel himself injured! It was merely a repetition of the words used by the gentleman, and these could not be offensive to him, unless from his consciousness that they had been by himself improperly used and applied.

A further caution, Mr. S. said, he found it necessary to express, from what he heard that morning. The House sat as judge on this case. It was an established principle, in the administration of justice, that the judge shall be influenced only by the evidence before him, and that he ought not to admit his own conjectures, or to believe beyond the evidence. He had this morning observed a member of the House, in whose candor he had usually confided, imprudently carried away by his feelings. Had not a gentleman said that he firmly believed it was not merely the design of the persons accused in this case to pull the coat off the gentleman from Virginia, but to trample him down? Was this the dictate of those impartial, those cautious sensations which ought to possess the breast of a judge? When members of the House were carried away by those improper conjectures and predispositions, a caution to them he conceived might be allowed as very necessary.

Farther. It was the duty of a judge when undertaking to be a witness to distinguish his situation. Yet there were several gentlemen who acted in the double capacity of witness and judge. One of those gentlemen had undertaken to argue upon his own testimony, and adduce his opinion thereupon, mixing additional evidence. Surely these circumstances must prove the necessity of extreme caution in those who would be impartial in their inquiries and just in their decisions in this case.

Mr. S. then proceeded to show the reasons which led him to concur in the report of the committee.

First. A previous inquiry ought to be, what are the privileges of the House which they undertook to vindicate? To what extent are they to be carried? In the present instance the privileges in question might be inferred from one, and that a very important right of this House, that every member should be free in debate; that he ought not to be called in question by any person, or in any other place, for what he had done or declared in the capacity of a Representative and in the proceedings of the House. But when the question is whether any member has been injured in this important right, gentlemen must also consider to what extent their privileges in this respect have been claimed. What had been the established practice of the House, Mr. S. asked, till the present time? Have not the expressions of members uttered in debate, with the addition of the most insulting calumnies and injurious commentaries, issued forth from the press and been disseminated throughout the United States? Has there been any precedent, any instance of a printer or publisher, who has been called to the bar of any House of Congress

for this offence as for a breach of privilege? It has never been thought worthy of notice, much less of punishment. He was now speaking before an assembly a majority of whom had, a few days ago, declared they would not preserve in their code of laws the statute by which those are to be punished who shall falsely and maliciously traduce the President or either House of Congress, by misrepresenting, not in words but in writing, their official proceedings; will this House then punish any man for merely a repetition of words, however reproachful, that had been previously uttered by a member of the House? If it was the settled law, determined by the practice of every House of Representatives since the Constitution, that the observations which members have used in debate may be repeated, published, and uttered, without exposing to punishment, there could be thus far no crime in this case.

Mr. S. said, he would consider the case in two points of view. First, as it respected the words as separated from any action; and secondly as it respected the words connected with what had been called the personal insult offered. In either view he thought he should justify the report. With respect to the first, he had already observed it would be a departure from the constant practice of the House to punish for merely the publication or repetition of words; such publications had been accompanied oftentimes with the most insulting strictures. He was certain the House would not begin at this time to punish where the publication had not been accompanied with any commentaries or insult. The use or repetition of the words alluded to in the charge might not have been intended as an offence, and was natural in officers upon whose minds the degrading epithets which had been bestowed on their employments must rest. It may be observed also that those epithets had been very improperly applied to the army, in the House. Indeed the repetition of them was a much more proper application as made at the playhouse, more according to the facts; but the application of such epithets to the Army of the United States, was not according to the truth, but must be attributed to the warmth of the member who had used them in debate.

But gentlemen have said that the repetition of the words of Mr. Randolph was with the purpose of producing a quarrel, and, considered with that design, the offence must amount to a breach of privilege. Whether this was or was not the case, Mr. S. said, the House as well as the committee may be at some loss to discover. It was probable if the intention had been to produce a quarrel the offensive words would have been more pointedly used, so as not to admit of a doubt as to that intention. If the gentleman himself thought so, his most proper way would have been to have asked an explanation. Judging from all the circumstances of the evidence as it now appears, and especially from the positive declarations of the officers charged, it may be reasonably concluded that an inquiry would have produced an apology perfectly satisfactory at the time, and the affair would have proceeded no further; and if that had happened

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there would have been more evidence before the House as to the intention. But that was not done. It was not pretended that these words were addressed to Mr. Randolph, if there was an intention that they should apply to him. It appeared that the occasion arose from a scene that was then exhibited on the stage; this might have reminded them of the words which had been used respecting the army, and which they must have considered as degrading their profession in the Hall of Congress.

But, Mr. S. said, he would beg leave to refer the House to the part of the evidence which was considered as proving a personal insult. One circumstance was, that Mr. Reynolds sat down in a place which was scarce sufficient to contain him, and, in sitting down, pressed Mr. Randolph. Whether this was meant to offend, or not, did not appear; but it would have been very easy for Mr. Randolph to have learnt the intention by asking it, and it was rather a wonder that that gentleman, supposing it to be meant so, had not then discovered it. But it appeared that there was an excuse for this action, arising from the evidence. In Mr. Randolph's statement, to which, as to facts, Mr. S. said he would give implicit credit, it appeared that Mr. Reynolds sat down in a place which Mr. Christie had just left; he perhaps thought he had a right to sit in it, and he did not think proper or find it in his power to take an exact measure whether it was large enough, since it had been occupied by another person; it having been left, made an apology not necessary, since Mr. Randolph could occupy the same room as before. This he did not offer as a lawyer's apology, but as a reasonable inference, and in this habit it was considered in the committee. This excuse would also appear reasonable from another part of the testimony. Just before Mr. Reynolds took this place, all the persons in the box had been attracted by a scene that was exhibiting, and got upon their feet. The time of returning to take their seats was the moment when Mr. Reynolds sat down.

Mr. S. thought Mr. Christie must have been mistaken as to Mr. McKnight's taking that seat. Mr. Randolph himself did not say he was beside him, nor was it said by any other witness, but Captain McKnight denied it. However, that was immaterial.

Another circumstance stated was, Mr. Randolph's coat being pulled. That he had his coat pulled, and that he thought it was intended as an insult, there was no doubt; but Mr. S. thought it was entirely impossible to collect from the testimony who it was done by; or, if that were known, it would be difficult to discover that it was intended to insult that gentleman. Whether it was done with such a degree of violence as to make it worthy of notice did not appear. The House could not attend to insinuations in this particular; they must let facts dictate their decision. He wished gentlemen to consider the situation the theatre was in; every one hurrying to get out before others. No doubt the press was very great, and it would be no wonder if a gentleman should suffer a degree of violence in such a situation—it

was almost inevitable. As to the acknowledgment made by Captain McKnight before the committee, it was not taken as evidence; but if the pulling of Mr. Randolph's coat is to be considered as proved upon Captain McKnight by his confession—and there seems to be no other proof of it—the whole of that confession must be taken together, and from that it must result that his taking hold of Mr. Randolph at the moment of leaving the box was at least intended to be gentle, was accidental, and without any purpose of insult to the gentleman.

Mr. S. declared that if there could have appeared from any part of the whole testimony a design to ill use Mr. Randolph, the committee certainly would have recommended a censure upon the parties who should have been found guilty, and he should have willingly joined in such a report; but, to the apprehension of a majority of the committee, there was no proof of ill usage, nor was there any ill intention deducible from the words or conduct which had been proved.

But were these persons declared innocent in the report? By no means. The committee had only declared their opinion to be that sufficient cause did not appear to induce a notice of this transaction on the ground of a breach of privilege. They by no means cleared the parties charged of every misconduct. There may remain suspicions of guilt when there is not sufficient evidence for conviction; the committee had framed their opinion from the testimony, that testimony was before the House, it was therefore for the House to decide. If censure and if punishment was at all necessary, it could be ordered.

The motion now before the House was for a recommitment of the report, upon the idea that the committee had gone beyond their authority, or that they had improperly used their authority, by expressing an opinion upon the style and mode of application to the President of the United States, which eventually brought this business before the House. If the arguments had been confined to this point, Mr. S. said, he should have been glad; but as it appeared by the conduct of gentlemen who first took up the question that the whole of the report was in discussion, he had been obliged to pursue them upon the merits of the resolutions.

He should now say a few words as to the supposed impropriety of the committee expressing their opinion. In what had they been guilty of impropriety? Had they exceeded the authority given to them? They were not specially a committee appointed to take the letter of the President and that of Mr. Randolph into consideration. The committee thought themselves under a necessity of considering it in a point of view in which they had reported. The regret expressed by the committee, Mr. S. said, was a regret which he felt the moment he had heard the letter read. He believed if gentlemen would examine the style of that letter they would regret that it was ever sent to the President. It certainly did not show a disposition to support that dignity which ought to be preserved inviolate between the different depart-

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ments of the Government. There was a kind of comparison of equality in the mode of address always indecorous in itself, and which ought not to be used from an inferior to a superior officer of the Government. He thought he did not speak improperly in saying that they, as members of the House, were inferior in their official capacity to the President of the United States. To preserve these distinctions, and the dignity of an official character, was particularly necessary for the preservation of the Government. Those who were exalted by their fellow-citizens should be treated with that respect, and being raised higher in power by the people, the more peculiar the respect to be paid to the office and authority, which is created for the common good. There was a very improper style of comparison, an evident indecorum through the whole tenor of the letter addressed by Mr. Randolph, and that, he thought, a mere perusal of the letter would as well prove as any comment could. But they had not expressed a censure on the member, and therefore the argument in that view must fail. They only expressed a regret that such a thing should be. A censure upon the author was not necessarily implied.

Another paragraph having been pointed out as exceptionable, wherein the committee considered the application to the President, however otherwise intended, as derogating from the rights of the House, Mr. S. wished to say a few words to. How was this application to be considered? Certainly as an appeal to the President, as Commander-in-Chief of the Army, complaining of the conduct of some of the officers of the army. Some of the gentlemen have said, there could be no doubt but the President possessed authority to regulate the subordinate officers; but how had the gentleman in this instance made his appeal? That his independence and rights as a member of the House had been infringed. Now that this was an appeal to the President for redress was clearly established by the perusal of the letter, and that such an appeal by a member of Congress was improper was equally well established. The committee could not be ignorant of these truths, and, knowing them, they were justifiable in saying that the appeal was made to an improper authority, because the appeal bore on its face a charge which respected a breach of the privileges of the House, a charge which is there exclusively cognizable, and to this jurisdiction the President had paid a suitable regard in his reference of the inquiry to them.

If this application had been made by a gentleman of a party who are supposed to favor the increase of Executive authority, Mr. S. supposed the attempt would have been treated as an aggravated offence, and they should not have heard the last of it for some time.

Mr. S. said he had thus briefly given some of the reasons which weighed with the committee in determining their report, and these reasons would still induce him to vote for the resolutions. He hoped the report would not be recommitted; he could see no ground for so doing; the report,

so far as it has been objected to by the gentleman who moved the recommitment, only contained the reasoning of the committee, and was not an act of the House. With respect to the resolutions, they could be amended or rejected when they came before the House.

Mr. NICHOLSON said, he did not intend to have offered any observations upon this subject, but he felt himself called upon by the remarks of the member from Massachusetts, (Mr. SEWALL,) who had just sat down. That gentleman had expressed an opinion, a part of which was a novelty to him, and which he certainly did not expect to have heard from a lawyer. He had said "that our present situation was a very important one, and the authority derived from it ought to be exercised with great caution; and that when a man became a witness in a case, he ought not to consent to sit in judgment upon it." Mr. N. said he trusted that he felt the high importance of his station as fully as any member upon that floor; but although he had been summoned by the committee to give testimony in this affair, yet this was not to deprive him of the Constitutional authority which he possessed of deciding upon every question which came before the House, either in its legislative or judicial capacity. It was a right which his constituents expected him to exercise, and he was resolved not to surrender it while they continued to repose their confidence in him. When he had made his affidavit, in obedience to the commands of the committee, he did not think himself at liberty to state his impressions, but as he was now on the floor, he would offer his opinions upon the testimony and the report which was under consideration.

He was somewhat surprised to hear the honorable member from Massachusetts (Mr. SEWALL) attempt a vindication of the officers on the score of an allowance for their feelings, which, Mr. N. said, he was willing to admit might have been somewhat wounded by the expressions of his friend from Virginia; but if they were to be justified in offering insult to the representative body because their feelings were to plead their excuse, he did not know how or where such conduct was to be checked. If members of this House are to be exposed to outrage and insult, and are then to be told that the feelings of military men had been excited, and therefore they were to be excused, what, he asked, was the necessity for the Constitutional guard of freedom of debate? But, said he, this mode of defence grants precisely what we insist on. While gentlemen attempt to extenuate, they tacitly admit the commission of the offence charged, and convict those whom they endeavor to acquit. Mr. Randolph's language, say they, was aggravated and improper, and therefore it must be supposed would naturally provoke the subsequent conduct. Granted—and this is the point contended for, for it admits the very fact in dispute: that this conduct did actually ensue.

Mr. N. said, he had thought the report of the committee extremely incorrect in a variety of points, and the very ingenious explanation of the gentleman from Delaware (Mr. BAYARD) had not

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induced him to change his opinion. It appeared to him that the committee had conducted the business entirely as if it had been a petty case between two individuals, and only interesting to the House because they were to decide on it; for, instead of examining Mr. Randolph upon oath, as they did every other witness, they barely procured a statement from him, in the same manner as from Captain McKnight and Lieutenant Reynolds, thus holding out an appearance to the world that Mr. Randolph was equally concerned with the officers. To be sure, one of the committee had explained this, but still it did not remove the objection, for however excusable the committee might be, yet this did not change the face of the report; it still went to the public as a naked question between individuals, and thus they would be induced to overlook it, as of no consequence to them, and will not give it that investigation which their invaded rights demand. But, sir, said Mr. N., I view it in a different light. I consider it as a question between this House and the officers of the Army and Navy. I consider it as a question between the civil and military authorities of the country. I consider it as a question between the sovereignty and independence of the people, and the influence of Executive authority. But, sir, the committee will appear to have thought otherwise, by inducing a belief that Mr. Randolph was a party interested, and therefore not to be used as a witness, when in fact he was only concerned as every other member in this House is—all being equally interested to preserve the freedom of debate.

But what in his mind was a powerful objection to the report, he said, was that the committee had exceeded the authority delegated to them by the House, in undertaking to censure the style of Mr. Randolph's letter to the President. The member from Delaware had indeed attempted to explain this part of the report also, by declaring that the committee did not mean to convey censure; but it appeared to him that the language was extremely strong, though they had affected to be somewhat modest about it. They express their disapprobation in pointed terms, and I have always thought that an expression of disapprobation amounted to censure, and an expression of approbation amounted to applause. But I deny the power or authority of the committee to make any strictures on the style of this letter. From whence do they derive so much authority? No such power was delegated by the House, for the Constitution gives them none. I know of no law providing for the case; the general rules and practice of the House afford no precedent that I have heard stated; by what right then, I again ask, did the committee undertake the task of criticism? Who erected them into a committee of censorship for the preservation of form and decorum? If we are to agree with the member from Delaware, (Mr. BAYARD,) this authority was derived from the President, for that gentleman tells us that the language was offensive to the President, and that out of respect to him they were bound to notice it. Is this, sir, a ground which the National Legislature

ought to take? Are we to enter into all the President's feelings? Are we to participate in his resentments? Shall this House descend from the dignity of guarding the rights of a great people, to the paltry office of settling rules and forms of etiquette? No, sir, it is as inconsistent with the character of a Republican Government as it is exceeding the authority under which we act. In courts, sir, I have been told that these forms are deemed essential, and that therefore much care is taken to preserve them. They publish the necessary style of address, and you can easily find out whether you are to call your fellow-man his Majesty, his Grace, his Lordship, or his Honor. But plainness and simplicity are the characteristics of a Republican Government, and ought not to be laid aside; for, in proportion to the establishment of titles and distinctions, in the same proportion do we lose sight of that equality which the member from Massachusetts (Mr. SEWALL) appears to think the offensive part of Mr. Randolph's letter.

I was surprised to hear that gentleman talk of grades in dignity on this side of the Atlantic, and object to this letter because Mr. R. discovered an opinion that he was on a level with the President. What, sir, is the President more than man? Because it is the custom in other countries to clothe a human being with the robes of state, and then fall down and worship him, shall we declare that our Chief Magistrate is exalted above the level of his race, and that those are his inferiors who are servants to the same sovereign people! True, he has more power, and is elected by more people than a member of this House, but then he has more masters, and is still a servant; we are all made by the voice of the people, and that voice can destroy us. It is the pride and boast of our Government that every man in it is subject to the same laws, and enjoys the same rights; that although we, with the President, are elected for a time to make laws for the good of the whole, yet after having performed our routine of service, we lay down our employments and return again to private life, become responsible to our fellow-citizens, and depend on our good conduct here for their approbation. Surely this gives a member of this House a right to consider himself on a level with the President, because in these respects an equality exists between them, inasmuch as they are both servants to the people, and this is the light in which my friend from Virginia considered it. The member from Massachusetts (Mr. SEWALL) might as well be displeased because his letters were addressed to plain Mr. Such-a-one, instead of the honorable Mr. Such-a-one; an unmeaning title which we have assumed without authority. I do not know, Mr. Speaker, that I should have addressed the President in the same style, because, as the gentleman from Kentucky (Mr. DAVIS) said, I do not know that I could; but if I had been consulted about this letter (which I believe none of Mr. Randolph's friends were) I do not think there is a single word which I could have advised him to blot. It is written in a style of manly independence, consistent with the charac-

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ter of a freeman who disdains to address himself to power in the language of adulation.

Let me again repeat, sir, that the committee have exceeded their authority. There was but one fact which they had to inquire into, and that was whether the officers had or had not been guilty of a breach of privilege, and this is the only fact on which they should have reported.

But, sir, in the third paragraph, the committee have again fallen into the error of giving this business the appearance of an affair between individuals. They have told you that Mr. Randolph demands "redress." I deny it. He asked no redress, but he requires a remedy to prevent future evils of a similar nature. What is redress? It is a compensation for an injury sustained. Does he ask compensation? No, sir. When a man has been injured in his person, he appeals to the laws of his country, by instituting a civil suit, and recovers damages to compensate him for the injury, and this is redress; but the offender is also punished for a breach of the peace, and this is the remedy (not the redress) applied by the State to deter others from the perpetration of similar offences against society. This, sir, is what Mr. Randolph demanded; the rights and independence of the Legislature had been attacked, the majesty of the people had been insulted, he therefore required the application of a remedy which might show to other military men the necessity of conducting themselves with decency and respect towards the civil authorities.

The fourth paragraph of the report appears to me highly exceptionable. It not only declares Mr. Randolph's application to the President to be improper, but that he himself had violated the privileges of the House. For, whatever is in derogation of the rights of this House must be considered as a violation of its privileges. This is a charge of a serious nature levelled at one of the Representatives of the people, and if true, ought to be punished. But, in my opinion, this application to the President was not only proper, but highly commendable. It discovered a spirit of mildness and forbearance which will rather command the esteem and approbation than the censure of the public. He had the choice of two remedies, either an application to this House, or to the President, and he preferred that which at the same time would be equally effectual, and yet be less harsh and severe.

But let me illustrate this conduct on the part of Mr. Randolph, by comparing it with a case of more familiarity. If a member of this House had been arrested for debt by a sheriff's officer while attending in the discharge of his official duty, the officer no doubt would be guilty of a breach of privilege, because it is expressly so declared by the Constitution; if the member thus arrested had written to the high sheriff himself, informing him of the circumstance, and stating to him that the privileges of the House had been violated, requiring him to instruct his officer as to the impropriety of his conduct, with the view of preventing similar offences in future, would any one here have said that this was a breach of privilege, or

would they not rather have commended the member for treating the officer with so much mildness and liberality? Would it have been thought preferable to arraign the officer at the bar of this House, to fine and imprison him for the commission of an act which in all probability arose from ignorance and misconception? Sir, I believe such conduct on the part of a member would have been thought cruel and oppressive, and would have been exclaimed against by all who became acquainted with the fact. Or, I would ask, if every man is chargeable with a violation of that duty which he owes to society, if he neglects to bring to punishment every one who in the heat of the moment may be guilty of a petty assault and battery? I confess I think otherwise, for I have always been of opinion that a mutual forbearance among men was necessary to preserve the harmony of society. It was the prevalence of this temper which prevented other members who were witnesses of the fact from bringing the business before this House, and if Mr. Randolph is guilty of a breach of privilege in making application to the President, every other member acquainted with the circumstance became equally guilty, by not applying to the House for the means of punishment; for it was as much the duty of those who were present as it was the duty of Mr. Randolph; all, as members of the Legislative body, being equally interested.

However, sir, let us recur again to this clause, and see whether the position of the committee may not be turned upon themselves. The committee have declared in their preamble that Mr. Randolph was guilty of a breach of privilege, in not making application to this House to punish the officers; and yet the committee themselves, notwithstanding they had these impressions, have introduced no affirmative proposition for the purpose of censuring or punishing Mr. Randolph. If it is the duty of members who believe that a breach of privilege has been committed, to apply to the House to remedy the evil, it was certainly the duty of this committee to introduce an affirmative proposition on this head, in order that the House might express their opinions on the subject, and punish or acquit, as their judgments might dictate. By neglecting to do this, if Mr. Randolph is guilty of a breach of privilege, the committee are equally guilty also.

As to myself, Mr. Speaker, I have no hesitation in declaring that I never did wish these young men to be punished with severity. I am willing to believe that their conduct was the result of youthful indiscretion, and as such might well have been overlooked by this House, leaving it to the President to have them informed that they had behaved improperly, and that a recurrence of similar misconduct would be attended with more serious consequences to them. Sir, I do not now wish them to be punished with severity; but as this business is brought before the House, I hold it to be our duty to decide upon it in such a manner as to produce a good effect upon the military of the country. I conceive this to be our duty, because I think our rights and the rights of the

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people are deeply involved, and because I think it rests with us at this moment either to surrender or to support the freedom of debate, which is one of our most essential privileges. If we pass over this instance, without declaring our sense of its impropriety, I know not how far the evil may extend itself.

Although it has been denied by some, yet it has been admitted by other gentlemen in this House, that if the words were spoken with an intention to insult, and it was proved that the insult had taken place, this would be a breach of privilege. This, sir, I take to be the correct ground, for, independent of the admission of gentlemen, a variety of instances might be adduced from the Parliamentary history of England where persons not members have been punished for words spoken to and of members.

The question then is, how these words were used by the officers, and how they were intended to apply; and whether, by the use of them and the subsequent conduct afterwards, it is not apparent that they intended to insult, for the purpose of provoking hostilities?

In my opinion, Mr. Speaker, no stronger argument can be adduced than the impressions which were made upon the bystanders. And here, sir, I cannot avoid noticing a remark which fell from the gentleman from Delaware, and which I regret exceedingly the use of. That gentleman thought it probable that the members present at the transaction were governed in their feelings by the peculiarity of their relative situation to Mr. Randolph, insinuating very strongly that their impressions arose from the similarity of their own and Mr. Randolph's political cast. [Mr. BAYARD said he did not mean to insinuate that any member was governed by motives of that kind, but spoke of it as a natural and involuntary bias of the human mind.] Mr. NICHOLSON said he trusted that the member had no such meaning. He flattered himself that the characters of those who were present were superior to such imputations, for although he himself had not thought proper to state his impressions in his affidavit, yet he could not avoid feeling for those who had; and he thought it very fair to suppose that those four members of the committee who had agreed to the report, in opposition to three of their brethren, were influenced by similar feelings. Those four gentlemen, said Mr. N., have testified, by their conduct here, their strong attachment to the Army; they have expressed a fellow-feeling for the officers, and one of them at least had on this floor warmly declared his disapprobation of the language used by my friend from Virginia. May we not believe, then, that these gentlemen were influenced in their examination of this subject, by their attachment to the army, and their disapprobation of Mr. Randolph's words? May we not suppose that their judgments were blinded by their feelings, and that this report is the production of party spirit? I do not charge the gentlemen with this, but it is certainly equally probable that they should be governed by their feelings, as well as those who were acting upon oath. But, sir, how will the gentleman

from Delaware account for the impressions made by the conduct of the officers on the mind of Mr. Van Rensselaer? He was no member of this House. He does not agree with us in political opinions. His judgment was not warped by party feelings or considerations. He does not "view Executive conduct with an eye of jealousy." And yet we are told by Mr. Macon, who I presume the gentleman will not say misstated a fact, that Mr. Van Rensselaer was the first who mentioned the subject, by telling him that these officers intended to insult Mr. Randolph. He saw the tendency of their improper behaviour and expressed his opinion on it instantly. His impressions were the result of what he saw, and could not be produced by a sympathy of political feelings.

How will the member from Delaware account for the impressions of the person who went to a distant box and told Captain Smith that it was the intention of the officers to insult Mr. Randolph! If the committee had taken the trouble to inquire (and I find the question was not asked of any person) they would have found that this was a man of respectability, bearing the exclusive title of a Federalist, and one of the warm supporters of the Federal candidate at the late election for a Governor of this State. He could have no feelings to influence him. He could have no attachment to Mr. Randolph, to whom he was a perfect stranger. His motives could only have been of the purest and most disinterested nature. He had no party malevolence to gratify, no personal attachments to interest him; he was unknown to all parties, and the fair presumption is, therefore, that he was perfectly impartial. And yet we find that he was under strong apprehensions that disagreeable consequences might ensue, and went to Captain Smith for the purpose of inducing him to interfere, presuming, I suppose, that he might have influence with his brother officers. How will the member from Delaware account for the impressions made on the mind of that man who told Mr. Christie not to leave Mr. Randolph, for some injury was intended towards him? He had no acquaintance with Mr. Randolph, had no feelings to gratify that we know of, and yet he could see the same impropriety of behaviour in the officers, and was impressed with the same opinions which other gentlemen entertained.

But it was insinuated that a report had been rung about the House by the friends of Mr. Randolph, and that the impressions were created in this manner. [Mr. BAYARD explained. He said he did not mean to charge the friends of Mr. Randolph with having done so, for he believed they had not; but that it was done by other persons.] Mr. NICHOLSON said this strengthened his argument, for it would not be contended by the member from Delaware that this report could have been circulated before the conversation had taken place in the box, for this would prove a premeditated design; it was not contended that the report was circulated by any of those members who were in the box with Mr. Randolph; and this clearly proves that the same impressions were made on all persons who were in hearing.

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Although I will not say, sir, that the House are bound to decide agreeably to these impressions, yet I will say that impressions so general, opinions so correspondent, could not have been formed by such a variety of men, who were witnesses of the scene, and could see the manner and countenances of the persons concerned, unless the intention was so strongly marked by their conduct as not to leave the possibility of a doubt. In my mind, an argument arising from the generality of the impression is irresistible in its nature, and must carry conviction with it.

As the testimony is in the possession of every member here, I shall offer very few observations upon it; but it appears to me that there are some strong outlines which deserve to be remarked on. Let it be remembered, sir, that Mr. Christie was in a situation to hear and see more than any other person whose testimony has been offered, and he has to-day stated that he was induced to observe these officers with more attention, because he heard several, either of the Army or Navy, declare, in the morning, that "Mr. Randolph ought to have his neck broke; that the officers ought to single themselves out and challenge him by turns until some of them killed him;" with other language to the same amount. This accounts for his suspicions of their intention, when he heard some person tell them they were not near enough to Mr. R., and they had better go nearer, as he could not hear them. The member from Delaware has said, that the committee were anxious to find out who this person was, and this is the only remark he made upon it. But it does not appear that they were anxious, for by examining the depositions it will be found that Lieutenant Thompson was the only person of whom the inquiry was made. He did not hear it, but it does not follow from thence that the words were not spoken. The committee neglected to put this question to the only two men from whom, in all probability, they could have received the requisite information; and these were Mr. Hurst and Captain Taylor. I have very little doubt, sir, but that Captain Taylor was the man who used these expressions; for Mr. Christie informs you that he was with the officers, and appeared extremely anxious to forward their views. If, then, the words were spoken, will gentlemen undertake to explain their tendency? They must have meant something, and we have every reason to believe that they were intended to induce a removal nearer to Mr. Randolph's situation, for we find Captain McKnight and Lieutenant Reynolds immediately changing their position and removing to the same box where Mr. Randolph was, getting so near to him as to touch him. The subsequent language was sufficiently provocative, and must have been directed to Mr. Randolph, as there was no other person there whose feelings could be wounded by the expressions, "black Virginia ragamuffins." But the member from Massachusetts (Mr. SEWALL) thinks that Mr. Randolph ought to have asked an explanation of the officers, with the view of obtaining certain information as to their intentions, and this information might have been used

as unequivocal evidence of their designs. Such conduct, sir, may be consistent with the cool, calculating cunning of a Northern climate, but is entirely inconsistent with the open manly character of Virginia. [Here there was a call to order from several parts of the House. Mr. N. asked why he was called to order? Mr. RUTLEDGE said it was certainly very much out of order to draw comparisons between different States.] Mr. N. said he meant to make no comparison between States, but merely to notice a distinction which he had always understood did actually exist between the inhabitants of Northern and Southern climates. If Mr. Randolph had required an explanation at all, it would have been with other views than those of procuring testimony, which might have produced very serious consequences. But he discovered a temper and moderation which did him great honor, until their conduct was such as to violate all decorum, and he found it impossible to submit any longer without retorting.

Gentlemen seem to think the circumstance of laying hold of and violently jerking Mr. Randolph's coat as very slight and trivial. They have attempted to explain it away by saying that Mr. McKnight gently laid his hand on his shoulder for the purpose of passing him with more ease, and that this was construed by Mr. Randolph into a violent jerk. But, sir, is it possible that Mr. Randolph should have so far forgotten himself, that he should so far have abandoned that principle of moderation which he had suffered himself to be governed by, and which alone had prevented him from resenting their conduct, as to call a man a puppy for a slight and accidental touch of his coat, or for gently putting his hand upon his shoulder? He had already submitted to too much insult during the evening, which he treated with the proper contempt, and it cannot be supposed that his indignation, which had not been roused by insolent language, should afterwards take fire on the slight and trivial ground of being by mere chance accidentally touched by a person passing him in the theatre. If the act was not more flagrant than that contended for, is it possible that he could have construed it into violence? Or can it be imagined that he, who had the moment before looked with an eye of cool contemptuous dignity on his adversaries, would at once become warm and impetuous, unless he was driven to it by conduct of strong and marked hostility towards his person? This, sir, would have bespoke a light petulance of disposition which I can inform those gentlemen who now advocate this report, constitutes no part of his character; and I think the circumstance of his calling the person a puppy furnishes powerful evidence to convince us that the act itself was of uncommon violence.

But, sir, Captain McKnight does not tell us where or how he heard of Mr. Randolph having used the words "mercenaries" and "ragamuffins" in debate. He will not deny that he had heard it, for he will not pretend to say that his using them was merely accidental, and without reference to Mr. Randolph. The officers of the army are not in the habit of expressing themselves

in opprobrious terms towards each other; they do not call their brethren "mercenaries" and "ragamuffins," for it is a language that would not be tolerated among them, and would produce endless quarrelling and disagreement. The words, then, must have been intended for Mr. Randolph. Captain McKnight has accounted very minutely for the whole of his time from his arrival in town until he went to the theatre. He came to the city about twelve o'clock, was immediately ordered on a court martial, which was not discharged till three; from thence he went to his lodgings, and did not leave them till he came to the theatre, at six o'clock. Here the whole of his time is accounted for, and no mention made of his having heard of Mr. Randolph's expressions about the army. But, sir, we are told by Lieutenant Thompson that McKnight, with himself and several others, went in the interval between the play and the entertainment to sup at an adjoining tavern, and here, sir, I presume the thing was talked over; I will not say premeditated, because I do not believe there was any regular plan of insult laid, or we should have heard it from Lieutenant Thompson, whose testimony is, I think, very correct; but in all probability Mr. Randolph's expressions in debate were then mentioned; a general coincidence of sentiment prevailed among them, as officers, that they were insulted and were bound to resent the affront; and no doubt a conversation similar to that spoken of to-day by Mr. Christie took place, "that Randolph's neck ought to be broken, and that some of the officers ought to shoot him." Under the impressions produced immediately by this conversation, and perhaps somewhat heated with wine, they returned to the theatre, and the exhibition before them furnished an opportunity of provoking Mr. Randolph in such a manner as they thought would produce a correspondent conduct on his part, which might justify the most indignant outrage that they wished to offer.

With this view of the testimony, therefore, and taking into consideration that none of the facts are denied either in Captain McKnight's or Lieutenant Reynolds's statements, I shall vote for a recommitment of this report, for the purpose of changing the nature of the preamble, and so modifying the resolutions as to express our disapprobation of their conduct, and slightly to reprimand them for what I consider only as an indiscretion, but an indiscretion of a very improper nature, and of the most dangerous tendency. If I could suppose that this affair was the result of a premeditated design, I should be inclined to punish it with great severity.

Mr. ORIS said, the whole tenor of the arguments of gentlemen in opposition to the report of the committee appears to be directed not against the resolutions but against the preamble to the resolutions. If the preamble had not been reported, he believed that no great objections would have been urged against the resolutions, yet was there no necessary connexion between them, nor any reason for recommitting the whole report, because that part of it on which the House was not called

to act might be liable to objections. It was also unnecessary on the ground of procuring the attestation of the gentleman from Virginia to his own statement, for it might easily be converted into an affidavit without that formality. But, said he, though it does not follow that the agreement to the resolutions is an approbation of the reasons assigned by the committee, yet to recommit the report would imply a direct censure of those reasons. Gentlemen may be convinced of the propriety of the resolutions without assenting to the reasoning contained in the preamble. That reasoning has been exhibited by the committee as the inducement which led them to propound the resolutions; but other minds may perhaps arrive at the same conclusions from a very different view of the subject. The same resolutions might have resulted from other premises, and the same premises might have warranted, in the opinions of some gentlemen, other resolutions. By deciding upon the foundation of its own merits, by recommitting the report, we decide upon the preamble, and decide against it.

For his own part, he was persuaded that much of the sensibility discovered on this occasion arose from a misconstruction of the report, and a prevalent opinion that it contained a direct and heavy censure upon the gentleman from Virginia. He denied the truth of this inference. The objections to the preamble may be referred to two points: the one comprising the allusions made to the style of Mr. Randolph's letter; the other, the exclusive cognizance claimed for the House in all matters of privilege respecting its members.

As to the first of these objections, he denied that the report contained a direct affirmation of censure upon the style or conduct of the gentleman, but it merely left the subject where it was, open to the opinion of every individual. As members of the committee, they express their regret that the gentleman has deviated from the forms of decorum customary in official communications to the Chief Magistrate. They do not deny his right to do so. They do not say he has been guilty of indecorum, or that he has not substituted other forms of decorum in the place of those which are usual. Upon this subject all are at liberty to form an opinion, and, from what has already transpired, we know that a variety of sentiment exists. Still, the committee may regret this departure from the customary style of writing to the Chief Magistrate; they may apprehend that it may lead to inconveniences. But other gentlemen, who think it not a matter of regret, and who have no fears lest the harmony of the different branches of the Government should be endangered by it, may still, consistently with their sentiments, vote for the resolutions. He would not, however, conceal his opinion, which actually accorded with that of the committee, that it was to be regretted that the gentleman had thus departed from the usual mode of addressing the President. It was true, indeed, that no precise forms were required by the Constitution or by the laws, and from the nature of language some variety of expression must always be found in the style and

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direction of different persons, but yet it would appear, upon examination, that the style of this letter was quite new and peculiar. [Mr. O. here read Mr. Randolph's letter in part.] The gentleman, said he, considers himself as holding, in common with the President, the station of servant to the same sovereign people. What is the meaning of the word servant? Grant that, in political treatises, this word is sometimes affectedly applied to magistrates and public officers, as importing that they are appointed for the benefit of the people, yet this is not the ordinary acceptation of the word. Its usual meaning is, a menial person employed for hire. At best, it is an equivocal expression, quite unusual and unnecessary; and why should we adopt, in our communications with the Executive, words that are liable to a possible misconstruction? Again, this word is inaccurately used, in whatever sense it is considered. For the gentleman from Virginia is not a servant in common with the President. Their offices are perfectly distinct. If both are servants the President is certainly a servant of a higher grade than any member of this House. He holds an office of greater trust, of higher responsibility. It is not, therefore, customary or correct to put both upon the same level. The letter proceeds: "disclaiming all pretensions to make any application which, in the general estimation of men, requires the preface of apology," &c. This, again, is unusual. To what species of application does the gentleman allude? Probably to applications for office or preferment. It is happy for the gentleman that his circumstances do not make it necessary or convenient for him to solicit any favor of this kind; but why thus formally disclaim his pretensions? Standing upon the same ground, and enjoying the same right, with other citizens, might it not seem to imply a belief that his political opinions would be considered as an obstacle to his pretensions, and that offices are distributed through favor and affection? Is it usual to say to the President, "I come to ask no favors?" "I seek no office in your gift?" Certainly it is not. But does the committee declare this language to be indecorous? Do they reproach the gentleman for using it, or deny his right to use it? No! They say it is not customary, and surely no man will say it is.

Mr. O. then referred to the last part of the letter, "In their name (the Legislature*) I demand that a provision commensurate with the evil be made," &c. What is the meaning of the word demand, in our language? One definition of it may be to ask, to require; perhaps the gentleman might simply intend the idea conveyed by the French words *je demande*; but is this the ordinary acceptation of this word? I appeal to the experience of gentlemen to decide, whether it does not import not merely a request, but a right to expect, and even an authority to compel, satisfaction.

The term is peremptory in its most ordinary use. This, then, is at least an equivocal mode of address, and a deviation from the customary tenor of official communications.

The last clause of the letter is equally singular: "In addressing you in the plain language of man, I give you, sir, the best proof I can afford of the estimation in which I hold your office and your understanding." It was, he conceived, uncommon and improper, in addressing the President, to comment upon his understanding. If by one his understanding be appreciated, it may be undervalued by another; one gentleman may profess to hold it in high estimation, another may assign it a less elevated grade. It could not be necessary to dwell upon the unpleasant consequences of discussions of this nature. Suffice it to say, with the committee, that the style is unusual and a subject of regret.

The second opinion of the committee, by which they had also given umbrage, was that in which they claim for the House an exclusive cognizance of all complaints for a breach of privilege. They assert that this application to the President, however intended, is derogatory from the rights and privileges of the House. There can be no doubt of the right and propriety of referring to the Commander-in-Chief, complaints of flagrant misconduct in any officer under his command, that due inquiry may be ordered, and a just censure or punishment awarded by a military court. But when the essence of the injury is made to consist in a violation of privilege, and the complaint is instituted on that ground, this House is the only tribunal to which the application should be made. If the gentleman had complained merely as an individual, without any reference to his station, or without considering the affront as offered to him in his official capacity, his letter probably would not have been submitted to the inspection of the House. He has not, however, taken this course; he considers the rights of the Legislature violated in his person; it is as a representative of the people that he demands redress; and, consequently, the committee, without charging him with a want of respect for the privileges of the House, content themselves with a declaration of their sentiments upon the mere question of the jurisdiction of the House.

In concluding his observations upon this head, he said that he could not forbear to advert to that part of the letter in which the gentleman professes to address the President in the "plain language of man." This expression seems naturally to imply that the President, being merely a man, is entitled to no distinction or peculiar marks of respect which are not due to his fellow-men. It is true that we live in a country in which the distinctions of rank and title are the voluntary tribute of civility to office and merit; yet, in the intercourse of life, both precedence and appellations of courtesy were dictated by our feelings and our habits. He had no doubt but the gentleman from Maryland, in his private conversation and manners, was an attentive observer of these forms; in addressing a gentleman he used the word sir, which was in itself a

* In a subsequent part of this debate, recurrence was had to the original letter, which reads *legislatur* instead of "Legislature," so that the meaning here must be in the name of the people.

title, and that, when he intended no offence, he refrained from the use of words which conveyed at least a doubtful meaning. And wherein consists the mischief of this civility? Is it not more than innocent, is it not salutary and productive of harmony and pleasure? In a Republic, where the Chief Magistrate is elective, and the dignity of his character is upheld, not like that of a monarch by the splendor of his station, or the compulsive homage of his subjects, but by the esteem of his constituents and the strength of public opinion, it is an incumbent duty to demonstrate, by all ordinary means, our respect for the character and the office. If in addressing the President we should waive all ceremony, and dispense with all forms of decorum, we cannot claim from him a more respectful attention in his addresses to the Legislative body, and by diminishing his weight and importance in the eyes of the community, we should also impair our own.

In regard to the evidence upon which the resolutions, were predicated, Mr. O. wished that it had been reserved for a distinct inquiry, and not involved with the question of commitment; but, as the gentleman from Virginia had proceeded at large into the examination of the evidence, and had been followed by others, he requested indulgence for a few remarks upon this point. The evidence naturally resolved itself into two parts—as it regards overt acts, and as it regards words. Without attempting to settle abstract questions of privilege or alluding to imaginary cases, he thought that the attention of gentlemen might safely be confined to two positions, arising from the circumstances of this particular transaction. First, that if the overt acts alleged against the officers were done with an intention to insult Mr. Randolph, they must, in connexion with the words spoken, be deemed a high and flagrant breach of privilege. Secondly, that the words proved to be spoken, if not accompanied with any overt act, with any insulting or menacing gestures, much less if not addressed to the member himself, could not be deemed a violation of privilege.

Let us then inquire, said he, into the nature of those acts which are imputed to the officers. There are two of them only upon which a reliance is placed. It is said that Mr. Reynolds crowded himself into a seat at the theatre in such a manner as to jostle and even to hurt Mr. Randolph, with an avowed intent to insult him, and that Captain McKnight pulled him violently by the coat, in coming out of the theatre. With respect to the first of these accusations, the question was not whether it might possibly be true, but whether the evidence of its being so, was satisfactory. It is indeed barely possible that Mr. Reynolds intended to affront Mr. Randolph by this mode of taking a seat at his side, but many circumstances render it doubtful and improbable. Had the impression since made upon that gentleman's mind been conveyed by the action itself, he would probably have demanded an explanation, as he afterwards did, when he felt himself pulled by the coat; his omission to do this, convinced him that he must have considered the conduct of Captain Reynolds as ambiguous at

most. There was nothing unusual in his occupation of a vacant seat; although the space was small it had been sufficient for Mr. Christie, a moment before, and if Mr. Rensselaer, who was leaning on the same seat, had resumed an upright position, it would have been still enlarged. In the public boxes at the theatre this change of places is incessant. The spectators, intent upon amusement, are often regardless of the punctillios of good breeding; every man is elbowed and jostled in turn; and can the House, sitting as judges in their own case, venture to decide that an ordinary occurrence of this kind affords proof of a design to affront the gentleman from Virginia; that it amounts to a breach of privilege?

The next overt act, said he, is the pull by the coat which Mr. Randolph felt and noticed in coming from the theatre. The first question is by whom this was done? The only evidence that fixes this act upon any individual is derived from Mr. McKnight himself; but this evidence, which confesses the probability of the act, also explains it. He declares that being violently pulled or pushed by others he merely put out his hand to save himself or to make room. The various parts of this relation must be taken together, and is it not a probable account of the affair? It is proved that at this time one of his arms was locked under the arm of Mr. Taylor. Would he have chosen this situation, if his intention was to commit an act of violence? Or would he not naturally expect an attack and have kept his arms at liberty to defend himself? It has already been urged that Mr. McKnight had a fair occasion of commencing a fracas when Mr. Randolph called the person who touched him a puppy, had this been his intention. To this it has been answered that he immediately passed by, and probably did not hear him. But why did he pass by, why not stop to hear him? If he was desirous of a quarrel why should he avoid Mr. Randolph? It has not been pretended that the officers intended to commit a secret outrage, to insult the member by stealth, and skulk out of his reach. On the contrary, the attempt has been to prove a design to bring on an open quarrel and riot, and affront him in the view of all the spectators. This evidence therefore labors under the same defect with the former, and is too equivocal for censure or punishment. Leaving, then, the overt acts, the injury complained of is reduced merely to the words spoken by the officers. Mr. O. said, that for the sake of argument he would admit that these words were spoken in the hearing of the gentleman from Virginia, in token of their disapprobation of the language used by him in the House, and that they were willing he should understand the displeasure they had conceived on this account. Still the words were not addressed to that gentleman, they were not accompanied with looks or gestures of insult or defiance, they were not uttered in a manner that could justify his taking notice of them. The question then arises, whether a mere repetition of words used by a member in debate, in his hearing, significant only of the disapprobation of the speaker, furnishes a ground for the interference of this House. Certainly the doctrine cannot be ad-

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mitted in this latitude; even this conduct in those officers might be improper and indiscreet; its remote tendency might have been injurious and leading to a breach of privilege, but did not actually amount to it. Suppose these words had been repeated from the galleries by a number of soldiers or other persons, would this House have thought proper to arraign them for a breach of privilege? On the whole, therefore, Mr. O. concluded, that a very concise statement of the results of the evidence must be sufficient to convince gentlemen that the resolutions as reported were warranted and supported, and that the report ought not to be recommitted.

Mr. H. LEE, sensible that the discussion had extended far enough, said he should not have occupied a moment of the time of the House, had not the subject been placed in a position which, it struck him, was exceedingly unfavorable to a right understanding of it. Instead of openly confessing, at once, the great objections they had to the report, and treating only on the reasons which operated with the committee on which to found the resolutions, gentlemen had extended their observations to the whole subject, unconnected as was one part with another, in the light the motion had placed it, although the whole report and the resolutions had been discussed. The only question now was, whether the committee had exceeded the boundaries of the duty prescribed to them. Those gentlemen who thought they had, would vote for the amendment; but by that act they would tell the committee that they had done what they ought not to have done. On the other hand, if a majority should be found to vote against the recommitment, they would tell the committee that no part of their conduct merited the censure of the House. In this view the subject was now placed, and simply so.

However he might differ, Mr. L. said, with the committee in one of their resolutions, yet he was bound to declare that he coincided entirely with them in their report; so far as he understood the rules of the House, they had not exceeded their power and duty by stating the reasons whereupon they acted. Had they shrunk from this task, feeling the conviction they have uttered, they would have merited the reprobation of the House, because they would not have done their duty. Had not a member from Virginia told the House that the committee uttered opinions unsubstantiated by evidence, and unsupported by facts? If the report was to be recommitted, it would be at once applying to the committee that censure which the observations of the gentleman were calculated to convey, and this censure would bear with redoubled force, because sanctioned by the House.

Mr. L. said he could not help observing that in the whole course of this discussion gentlemen were very delicate with respect to the conduct of an individual, lest a censure might be cast on him, but it was remarkable that in the same breath they were not cautious as to censuring a very respectable committee of the House? He was not desirous of censuring either a committee or any individual member of the House, except justice and

duty combined to require it, but to the impulse of duty he trusted he ever should be susceptible.

What, Mr. L. asked, have the committee done to merit your censure? They have told you in language the most delicate, that they think the letter written by the member to the President is a deviation from that decorum which ought to be observed, and which is essential to harmony in the Government. Is there a man here who doubts the sincerity of the committee in this particular opinion? If they believed so, it was their bounden duty to make the declaration; and if they ought to say it, in what language could they convey it with more delicacy than they have done? Shall a censure be cast upon them, and for what?

Mr. L. then read the report and the first part of the letter, in order to examine whether the opinion suggested by the committee was not well founded. What he asked could the word "*servant*," in the letter, mean? A servant was well known to be a person in low condition, and one over whom a command was existing. He did not view this very indecorous language as applying to the President in his individual capacity, but to the representative of the people, and in that view he considered not the man but the majesty of the people concerned. How would the people look on this indecorous and degrading treatment of their Chief Magistrate! If the Chief Magistrate was addressed in an undue manner, it could not be improper for the representatives of the people to express an opinion thereupon. Indeed there would be a deficiency in the execution of their duty, were they to neglect it. He considered the end of all Governments ought to be the happiness of the people, he considered it peculiarly so in a representative Government like ours, where all the power of the Government was immediately and necessarily drawn from the people. When he looked at the President, as Chief Magistrate of the Union, and acting by their choice he saw in him *the people*, when he looked at the Senate, or at the House of Representatives, he also saw in them *the people*, because the whole of the power possessed by either, and all the branches, were derived from the people, for whom they acted. He would always give his dissent to any and every measure which went to disparage the organs of the people. It was upon this ground that he considered the language of the letter indecorous and improper, to be used by any man to either branch of the Government.

"In their name, *I demand*," &c. Suppose the President of the United States was to send a Message to this House couched in language like this, how, Mr. L. asked, would gentlemen feel it? How would my colleague himself, or his colleague in opinion (Mr. NICHOLSON) feel it? I should consider the President as committing a deep insult on the majesty of the people. Is he not situated as we are? Does he not derive his situation from the same source as we do? Then surely if we should be justifiable in feeling the offence, he has a right to be so, and we may presume he does feel it; but he has too much good sense to feel it in his indi-

vidual capacity, he must however feel it in his representative character.

"*I demand.*"—When I say this, what meaning do I convey? It implies that I have very great reason to suspect you will not do the thing in question, but which you have a right to do. On what ground I would ask, did the gentleman suppose that the Chief Magistrate would not do what he ought? Surely no gentleman can say this is decent language; no gentleman but the gentleman from Maryland has pretended to approve of it. I did not think that there was a man in the House who would have used it, but there is one who admires this extraordinary style; happily that does not prove the consistency or propriety of it.

As to the word "fellow-citizen," Mr. L. thought it was decent; he could see no objection to it, because it was truth, and conveyed no improper idea, but when he heard expressions used which conveyed impressions that the President would not do his duty, rather than think of censuring, he should, for one, think himself bound to thank the committee for noticing it, and at the same time he could not avoid admiring the moderation exemplified in their delicacy of the expression of those feelings.

Mr. L. asked, whether decorum of behaviour between man and man did not go to uphold human happiness, and peace and good order in society? On the same ground the committee thought decorum was necessary to be preserved between the branches of the Government, in order to preserve the happiness of the people. Would the gentlemen from Virginia or Maryland, if they met a lady in the street, address her by the plain epithet of woman? No, they would know it was an offence, and would avoid such language; they certainly would address her in the customary style. If you beat down these barriers, who can trace the consequences? He considered that all these means to cultivation, small as they may appear, ought to be considered important, for the surest road to overturn a Government was to encourage innovations upon good order and decorum. Upon this ground, Mr. L. said, he was inimical to introducing any new mode of speaking or acting, since the customary one had been found to answer good purposes, and no fault had ever been found with it.

Mr. L. then made some observations in support of the consistency of Mr. BAYARD in his remarks, and in his examination of the testimony, which by another gentleman (Mr. NICHOLSON) had been supposed to bear an inconsistent aspect.

He further observed that, though it was his desire the observations should be confined to the report, yet as the testimony had been introduced, he would go on and make a few remarks on the resolutions.

With respect to the first, he supposed there would be but little, if any, difference of opinion. He could not think it possible for the most ingenious members in the House to argue for a moment against the propriety of the conduct of the President, and his merit of the approbatory declaration of the House for submitting the letter,

in the most respectful manner, where alone he considered the right of privilege to exist. Supposing that a large majority would concur in this opinion, it was unnecessary to occupy a moment in speaking on it.

But this was not his opinion with respect to the second resolution: he wished he could as readily and with as much propriety concur with the committee in their opinion respecting that.

Mr. L. said he viewed the rights and privileges of the House as forming a most important feature in that system of Government under which we live; he conceived every attempt, be it little or great, which went to debase those rights and privileges, as commanding the just displeasure of the House, and unless in this instance the amount of the evidence could be better done away than it had been, he was of opinion that this was one of those cases in which the House ought to show it. He thought it was plainly proved that the two officers now charged had been guilty of conduct which rendered an application for redress very necessary, and to refuse redress would be very improper. He would give his reasons:

In the evidence of Mr. Christie, (which was entitled to the highest credit,) it appeared that one said "go nearer, he does not hear you." This was said respecting Mr. Randolph; it showed very plainly that these two officers had designed to insult the member: to execute a design thus evinced, they did go into the box where he was, and continued using the words mercenary and ragamuffin. Unless it could be proved that they had no intention to give insult, Mr. L. said, he could not believe but they had; for merely because they did not go through with their design was no proof that nothing was done towards it. That argument of gentlemen was something like an argument used on the other side, during a debate for the reduction of the Army, that you are not to prepare against an invading army till they land on your coasts! The inconsistency of the doctrine must be readily perceived.

The intention, in my opinion, said Mr. L., is well proved, unless contradictory testimony can be produced; if proved, the dignity of this House, the feelings of this House, and the duty we owe to the people, all command us to say that it was an attack upon our privileges as their Representatives, and ought to be noticed.

Had these two gentlemen been common citizens, Mr. L. protested, he should have been willing to disregard the business; he should have been more willing to grant indulgence for overstepping the bounds of decorum in this matter, which, simply considered, was trifling; but with respect to gentlemen who held commissions under the President of the United States, it was their duty, as it ought to be their pride, to protect and respect every part of the Government; it was their duty to have interposed if they had perceived any insult offered to any member of this House, and in no case to take the lead in disorder. Valuing the honor of the Army, he thought it his duty to let gentlemen in that character know that more was expected from them than from

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other citizens, because, independent of their character and duty as citizens, they were called upon to protect the good order of society. But although he should vote against the last resolution, because it was proper to express a disapprobation of the conduct of these officers, he wished to express that disapprobation in as light a manner as possible, and in this opinion he hoped the House would concur.

When Mr. L. had concluded, the House adjourned.

TUESDAY, January 28.

Ordered, That the third reading of the bill to establish a uniform system of bankruptcy throughout the United States, be postponed until Thursday next.

A petition of Amy Dardin, of the county of Mecklenburg, in the State of Virginia, widow and relict of David Darden, deceased, was presented to the House and read, praying compensation for the loss of a horse, the property of the said deceased, which was taken for the use of the Continental cavalry, during the late war.

Ordered, That the said petition do lie on the table.

On motion, it was

Resolved, That a committee be appointed to inquire whether any, and, if any, what, alterations are necessary in the law passed the first of June, one thousand seven hundred and ninety-six, entitled "An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen."

Ordered, That Mr. HARRISON, Mr. BRACE, and Mr. GALLATIN, be appointed a committee, pursuant to the said resolution, and that the said committee have power to report thereon by bill or otherwise.

CASE OF MR. RANDOLPH.

The House resumed the consideration of the report of the committee to whom was referred the Message from the President of the United States, together with a letter from JOHN RANDOLPH, Jr., a member of this House for the State of Virginia, the motion under consideration being to recommit the report.

Mr. HARPER said he did not rise to follow some of the gentlemen who had risen yesterday, in their lengthy examination of the evidence, because he thought in that conduct they had strayed very far from the motion before the House, which he supposed was merely designed to recommit the preamble, because it was not worded to the liking of some gentlemen, as they could not debate on what was not an act of the House, but of a committee, the only way to show their dislike of it was to move its recommitment. This appeared to be the general opinion. But Mr. H. thought it was not in order to recommit the report at large, since any disapprobation which the House may desire to express could be conveyed by resolution, or the present resolutions may be altogether negatived.

However, since the motion had been to recom-

mit, and since, in the discussion of that motion, the subject at large had been discussed, Mr. H. said he would just inform the House what he thought the most proper mode of proceeding.

He did not believe there was a breach of privilege in the present case; of this he was well satisfied in his own mind, and which he should feel no objection to explain, if the proper motion was before the House. He conceived it could not be objected that the resolution approving the conduct of the President was highly proper, on a presumption of which he should not enter into a defence of that resolution. He believed that the preamble to the report was very proper; that it went no farther than it ought to have gone, and that much credit was due to the committee for their moderation in the report they had produced. But though he was of opinion that a breach of privilege was not committed, he was also of opinion that the conduct of the officers was very indiscreet and highly improper.

He believed, since nothing appeared to contradict that opinion, that they came to the theatre without any design of insulting any person, and that they returned after they had gone out to supper without any such design; he believed, also, that when they made use of the expressions, it was done without any view of producing a quarrel. He believed it a mere indiscretion of youth, excited by the occasion that offered. It certainly ought to be noticed in some way or other, but Mr. H. did not think the repetition of mere words could amount to a breach of privilege, if not offensive in themselves, nor coupled with actions that were offensive. This he held to be a just principle. The words which are repeated must be in their own nature offensive, or, not being so, must be coupled with some action that is so, in order to amount to a breach of privilege. These words could not be offensive in their own nature, because the member used them in his seat, and used them without occasion. The mere repetition of these words, then, could not be criminal. This position, he thought, could be easily maintained by discussing the testimony, but he conceived it unnecessary. But Mr. H. considered the conduct of the officers improper and indiscreet, as before observed; though they might not have intended to produce a quarrel, yet it might have had that effect; as it might have produced much ferment they ought to have guarded against it. This idea he wished to express by a resolution somewhat to this effect, if the second resolution reported by the committee should be negatived. To insert the words "although the conduct of Captain McKnight and Lieutenant James Reynolds was indiscreet and improper, yet sufficient cause doth not appear for the interposition of the House on the ground of a breach of privilege."

Mr. H. did believe that this indiscretion had been fallen into, but it was not of a nature to require reprehension, much less punishment. He thought it one of those charges which would admit of extenuation, but he would not enter into it, because it appeared to the gentlemen who had spoken, generally, that the crime did not amount

to much, and particularly so, since it must be acknowledged that provocation was given by the member in this House to that class of men. On these accounts he should vote against the recommitment; and if the second resolution should be negatived, he meant to move as a substitute the above in its place.

Mr. HARTLEY did not conceive that it would be passing a censure on the committee to recommit the report, though, for his part, he saw no necessity for that measure, since the House could express their whole desire in the resolutions. He thought the conduct of the officers at least indiscreet, and ought not to pass without some reprehension. The testimony of Mr. Christie, in his opinion, proved a complete insult. Certainly their behaviour was very rude and insolent to the gentleman; but he did not conceive it was a premeditated scheme. How far the irritation they might have felt could operate to excuse them from insulting a member on account of what he had said in the House, he could not say, but certainly some impropriety was attached to it, and therefore he could not, with the committee, vote for an entire excuse of their conduct.

Mr. R. WILLIAMS said, he was of opinion the debate had taken a course it ought not; for most gentlemen had directed their arguments principally in support of the preamble or reasoning of the committee, and at the same time acknowledged that the House could not act on it. It was for this reason, he supposed, the member from Maryland (Mr. SMITH) had made the motion to recommit the report of the committee.

He said the report presented two distinct subjects: one in relation to the application and style of the letter of Mr. Randolph to the President; the other in relation to the conduct of the officers, and charged to amount to a breach of privilege—yet the committee had thought proper to make a report in such manner as to deprive the House from having any kind of control over one-half its conduct in any other way than by the one proposed, and which is now contended to be equally an important part of the reference.

Mr. W. said he did not believe any intention was entertained by the House, in making the reference, that the committee should consider the style of the letter or manner of application, and that it was never thought of till hatched in the committee or elsewhere less public; for, as one of the committee, he knew it was a matter of doubt, even with the most anxious for the power, when first mentioned, and it was some time before a conclusion was had to that effect by the majority. He said he wished gentlemen to consider the conduct of the House, and the arguments made use of, in order to obtain a reference, and if they were to be relied on. The powers the committee had assumed were not contemplated or mentioned by any one. When the motion was made to raise the committee, the member from Virginia himself, who had been insulted, opposed it, and said he did not mean application with a view to a breach of privilege, and, if he had, he knew it ought to be made to the House. But gentlemen

then urged it was a question in which the House and all its members were interested, and that there were a thousand considerations which might operate on the member injured, but which ought not on other members of the House; that having a knowledge of a breach of the privileges of the House, they ought to act.

If the committee considered this an important part of their duty, why did they not report accordingly, and in the usual form, something by way of resolutions, on which the House could act? Why did they not also report a resolution on the conduct of Mr. Randolph, (which it is now contended was referred to the committee,) instead of a train of irrelevant reasoning against him, and on one part of their duty, whereon to found resolutions on the other part to exculpate the officers offending? Thus he thought he was warranted in saying the committee had exceeded the objects of the reference, and that they were sensible of so doing, otherwise they would have reported substantially on both objects, which it is contended were referred.

Mr. W. said this was a question which of all others ought to have stood clear of an evil which found its way into almost every question that came before the House, he meant party; but, so far from this, certain gentlemen had taken occasion to invite it, in express terms and with a degree of triumph. He cautioned them to consider, that a question of privilege might operate as a two-edged weapon, and cut both ways.

He said, although he was one of the committee, he could not acknowledge himself under any obligations to the gentleman from Virginia (Mr. LEE,) for his defence of it; that gentlemen had stated, that the committee have a right to report what they thought, and to recommit the report would be a censure on them. He said it was the first time he ever heard the report of a committee defended on such grounds. Mr. W. said it was every day's practice for the House to disagree to reports of committees, and to recommit them too; and he never before knew any one to consider it a censure; indeed this same gentleman has expressed a desire and intention to amend the resolutions reported, so as to alter the substance, notwithstanding his extreme caution on the score of censuring the committee. Certainly this would be as much a censure as to recommit; the effect would be the same. In both cases it showed a disagreement of the House with the opinion of the committee; and that the committee had a right to report what they thought, he supposed every member of it and the House knew, and that the House also had a right to disagree to any report.

As to the objections made to the style and manner of the letter of Mr. Randolph, Mr. W. asked who, or what body had a right to point out any particular style, in which the President or any officer of the Government should be addressed? If a particular mode is necessary, it had better be stated by some legislative act, that all might know; yet even that might put it out of the power of some to address without offence, unless by the aid of those skilled in courtly etiquette.

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But, said Mr. W., is it not a little surprising to see gentlemen differ so widely among themselves on this subject? In attacking the style of this letter, one gentleman, from Delaware, (Mr. BAYARD,) had found fault with the word "fellow-citizen;" another, from Massachusetts, (Mr. OTIS,) thought "servant" a very improper epithet for the President; and a third (Mr. LEE) considered the words "I demand" as improper and rude. All those gentlemen had undertaken to point out the offensive parts of the letter of Mr. Randolph, and yet no two agreed. This, sir, shows the absurdity of any attempt of the kind, and that those gentlemen could not agree on this subject were they to set about it. But, said Mr. W., is this a proper subject for the House to act on? Have we a right to dictate the language or style of any man, and how he should address the President? Admitting, for the sake of argument, (and that only,) that this letter had been written in a style not altogether decent, what have this House to do concerning it? Suppose any other person had written a letter to the President, not decorous, ought this House, or could they consistently take cognizance of it, in case the President should think proper to communicate it by way of message? Certainly not. If an offence is offered to the President by any person, the laws are sufficient to protect him, and punish the offenders, and not this House. We have no power to protect or punish any person, except by laws which shall operate equally on all.

Mr. W. said he agreed with the member from Massachusetts, (Mr. SEWALL,) in his position, that this House ought to be cautious in exercising its powers on questions of privilege, and he believed there were few members in the House as relax on those points as himself. That gentleman had also warned the House against casting a censure on the conduct of these officers in a doubtful case, and when their intention to insult is not clearly ascertained. Why does he not extend this principle also to the other side of the question, as relating to Mr. Randolph? Is there any evidence that he intended to insult the President, even if his language in the letter was capable of it? And can that gentleman, by any possible construction, make the case more than doubtful? Yet we see him wishing to cast the strongest censure on Mr. Randolph, (the person insulted,) and at the same time willing to exonerate the persons insulting altogether. He said this was a disposition which he could not very well account for on proper principles.

Mr. W. said, with respect to the words used by the officers, his opinion was expressed in the report of the committee: that they might have been produced more from the occasion at the theatre, than from any direct intention to insult; therefore not worthy to be considered of by the House, on the ground of privilege. He should not go into an investigation and comparison of the evidence in the case, as some gentlemen had done, because he thought it did not comport with the dignity of the House to attend hours together on gentlemen in seeking up and explaining evidence, which was short, and which every member had on his desk,

and because he supposed them all capable to judge of it

Mr. W. concluded by saying he had endeavored to confine his observations to the question of recommitment, which he hoped the House would agree to; because the report was, in his opinion, uncandid, inasmuch as it tended to cast a censure on Mr. Randolph, and was so calculated, that the House could not express its opinion on that part in any other way, unless to approve, for the rules of the House did not admit of the amendment to that part.

Mr. EDMOND did not conceive the committee could give any new opinion upon the papers, if they were to be recommitted to them. At the desire of the House, they had considered the letter, as well as the Message of the President. From all the facts which had appeared before them, they undoubtedly thought themselves bound to make a report. What more could be expected from them, if they were to take it back? If it were to be referred to another committee, another opinion would probably be given; was it probable that would also meet with opposition on account of the difference of opinions entertained in the House?—if so, no advantage could be derived. The committee had given an opinion, but, Mr. E. said, that opinion would have no influence upon his mind. It was their duty to report, but the House were to be guided by that report no farther than their judgment should direct them; at least, that was the way in which he should act.

The report was considered a censure on the member who wrote the letter to the President, because its style was not proper. That the style of the letter was displeasing to the President, Mr. E. thought was clear enough: whether the President had a right or not to be displeased, he would not pretend to say, but it was not pleasing. The committee regretted that this should have existed, and they certainly were right, but that was no censure on the gentleman.

Farther, Mr. E. contended that the idea of the committee, that it was derogatory to the rights of the House to apply to the President, was accurate; it was a complete surrender of all the privileges of the House, out of its own hands, where the Constitution had placed them, because the gentleman did not appeal as an individual citizen, but as a member of the House. The facts stated in his letter were, that he had been insulted and abused for words of a general nature uttered in the House: he then went on, "it would be derogatory to your character, sir, for me to point out the remedy, which it is your province to provide." Here the complete surrender of the cognizance of the House is made to the President. But what made it more so, it was not in his own name he made the appeal; if he had, the House would have had nothing to do with it; no, it was in the name of the House he made the appeal and demanded a remedy. "The independence of the Legislature has been attacked, the majesty of the people, of which you are the principal representative, insulted, and your authority contemned; in their name I demand that a provision," &c.

[Mr. RANDOLPH said it was a misprint where the word "Legislature" was inserted; by a reference to the manuscript letter it would be found to be "Legislator." By a reference to the letter, it was found to read "the independence of the Legislator has been," &c.]

Whether this demand was made in the name of the people, or whether it was in the name of the Legislature and people, Mr. E. did not know; however, he conceived it made but little difference, since in his opinion the rights of the Legislature were surrendered to the Executive by the appeal, which certainly was to obtain a remedy he had no power to give, and, therefore, the committee were correct in saying it was derogatory to the rights of the House.

With respect to the resolutions, Mr. E. could see no reasons for recommitting, since the whole of the evidence on which they were formed was before the House; there could be no reason to explain this evidence anew. If any new evidence could be produced, or any new light derived, then it might possibly be an argument for recommitment, but, even then, it might as well be done in the House. Mr. E. did not see the necessity of going into the testimony; he did not consider the House like a jury, that he should arrogate to himself the right of summing up the evidence or laying down principles of law, of which they were as well able to judge as himself.

An idea was advanced that though this did not amount to a breach of privilege, yet some degree of blame was attached to the conduct of the officers, and some mode of censure ought to be taken. In answer to that, Mr. E. said, it was a breach of privilege, or it was not; if it was, it ought to be treated as such, and punished accordingly; there was no half way in the business, and the House could not take a step out of their province. It must be a crime, or it must not; if not, according to the rules of the House they had nothing to do with it.

An idea was advanced, (he thought by the gentleman from Maryland, Mr. NICHOLSON,) that these gentlemen had been out to sup, and might have got a little warm with wine, and, therefore, might have proceeded a little farther than they intended. This was mentioned in exculpation of their crimes. This was a kind of apology which was very inconsistent with the rules of law. If a breach of privilege was committed, could this apology mitigate the crime? As he observed before, Mr. E. said, if the officers were guilty, the House ought to do itself justice in their punishment; if they were not, it ought to do them justice in acquitting them of every charge.

Mr. GALLATIN.—The report of the committee appears to embrace three things. First, an expression of respect and commendation of the President's conduct in submitting the subject of the letter to the House; secondly, an exculpation of the officers, and thirdly, a censure of Mr. Randolph for his conduct, not only as to the manner and style of the letter, but in regard to the appeal itself.

If the committee had, agreeably to the usual custom, laid before the House a number of resolutions

deduced from the opinions expressed in their preamble, there would have been no occasion for the present motion to recommit the report: but they have now reported in a manner that precludes the possibility of an alteration in the House, and, therefore, the only way to come at the report is by recommitting it. The House are by this report prevented from giving an opinion, although the committee have thought themselves authorized to do it.

So far as relates to the two resolutions proposed, Mr. G. said he did not mean to give an opinion, because if the present motion was negatived, the House would then have them fairly before them; but, as there had been during the debate a general deviation from this strict adherence to order, and as he thought some of the facts merited an answer, he should indulge himself in the same with following them. We are told, said Mr. G., that by admitting the resolutions, we do not admit the reasoning upon which the resolutions are founded, or that the reasoning of the committee is only their own, and we cannot make it ours; but it will be found, upon perusing the second and fourth paragraphs of the report, (I will not call them reasonings, I will call them assertions or declarations,) if you precede them with the word resolved, they would be complete resolutions. The committee might have deducted these two resolutions. I will now ask why they did not introduce it in that form? I will suppose at this time that the committee had the full power to extend their ideas to every subject laid before them; if the committee thought they were justifiable in taking up the style and manner of appeal, they ought to have taken it up and acted upon it, but in such a manner as to enable the House to do the same. The letter was within the province of the House, or it was not; if it was, then it ought to have been reported on, so that the House could act on it, nay, it was the duty of the committee to do so: if it is not proper for the House, neither was it for the committee, and, therefore, it was uncommon and improper. That it was uncommon I think every man must acknowledge, when it is considered that a committee never reports upon more facts than are referred to them. It was improper, because it contains an indirect but easily distinguishable censure on Mr. Randolph, while it exculpates the two officers whose conduct was complained of.

To me, said Mr. G., this would be a sufficient reason to vote for its recommitment, because I cannot otherwise express my disapprobation at the censure exhibited against Mr. Randolph.

But I will go further—I will say that the report is objectionable, not only on account of the committee expressing declarations and assertions which they did not think proper to submit to the discussion of the House, but because their declarations are incorrect and unfounded in themselves.

In order to prove this position, Mr. G. proceeded to review the evidence. From which it appeared that these officers were at the theatre, first in an adjoining box to Mr. Randolph; that they made use of words ostensibly pointed at him, and which could not but be taken by him as an

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insult; that their allusions not only went to him as a Virginian, but as a member of Congress—"they would be better drilled by the next session of Congress." These allusions were repeated several times by both the officers, and with a view of being heard by Mr. Randolph; that, after this, one of them took a seat close by Mr. Randolph, in a manner at least rude; that, at the end of the performances, one of them, being behind Mr. Randolph, was seen with his arm extended at the instant his coat was pulled, so that no doubt could remain but it was he that did the act.

The question is, whether these facts amount to insult, or not; and this must be answered by discovering the intention of the party acting them. To me, said Mr. G., it does amount to insult; I draw my deductions from the facts themselves, and the impressions these facts made on the bystanders.

The facts speak for themselves. These words were repeated a variety of times, and, to leave it unquestionable, one said, "go nearer to him, he does not hear you." These words were followed by acts of violence. The whole of this together must prove some hostile intention. There cannot be a doubt that words alone amount to an insult, but it is left indubitable, if followed by actions. In order to evade the force of these concurrent circumstances, gentlemen have split the testimony into a number of pieces, and thus concluded they made nothing at all! But I conceive these pieces ought to be collected, if we wish to discover the truth; it is the whole mass of the facts united that must guide the decision of the House. And to this ought to be added the impressions those facts made on the bystanders, the minutiae of which they could not explain, but generally they could not but be impressed with their force. These impressions were not confined to members of this House; Mr. Van Rensselaer, of New York, and other gentlemen, did actually express their impressions to be such as left no room to doubt that insults were given.

It has been said that this committee exerted themselves to discover all the facts and all the evidence that could be had. I dare say they acted to the best of their knowledge, but they certainly forgot to examine a most important witness to the early part of the transactions of these officers. Captain Smith says, in his testimony, "a gentleman of our acquaintance came and informed me of what had happened above," &c. Did the committee ask Captain Smith who this gentleman was, in order to bring forward his testimony, because he must have known something? They did not. But was it not their duty to have known and sent for that gentleman? Certainly. This exhibits a considerable, nay, an important neglect on the part of the committee, because the impressions made on this gentleman's mind were such as excited him to wish the interference of Captain Smith. The committee did not pursue the testimony as far as they could, and as they ought to have done; but had they produced this gentleman they would have found him impressed with ideas similar to those of Mr. Christie, and

others, though in political opinions very opposite. In my opinion, Mr. Speaker, every doubt as to the intention of these officers must be dispersed upon a review of the testimony, and most particularly that of Mr. Christie. Unless I can be brought to disbelieve that gentleman's relation, I must believe there was insult committed, and that their intention was to insult. Can any person review the words and conduct of these men, and say there was no insult?

To be sure I cannot command the same impressions on the minds of other gentlemen which I receive myself, but I cannot see what ground there is for the conclusions of the committee, that all the facts were either satisfactorily explained, or of too equivocal a nature to merit notice. I do not know a single fact that has been satisfactorily explained; there are some of an equivocal nature, to be sure, that do not receive that degree of positive proof which may be necessary, but I do not see them explained away. If these gentlemen were innocent of any intention, one in forcing himself into the seat of Mr. Randolph, the other in pulling his coat, was it probable these acts would have so immediately followed the abusive words which they used, and which evidently were meant to insult that gentleman? This certainly must tend to increase the suspicions of any man who will observe the circumstances.

Although I state these impressions, said Mr. G., I would not say there was any premeditation, if by that word is meant a combination entered into beforehand, since it appears from evidence, that one of the officers had but very recently arrived in town. They certainly could not have known that Mr. Randolph could be there; but though willing to make every allowance in favor of the officers, I cannot say that Mr. Randolph received no insult.

I will now, sir, proceed to an examination of the charges exhibited by the committee against Mr. Randolph, in respect to his letter and application. The style of that letter has received a stronger appearance by the animadversions and explanations of some gentlemen than it will admit of; it has certainly received a strained meaning. But, before I come to the letter, permit me to say that in respect to the two paragraphs of their report, I do not agree with the members of the committee that no censure is included; on the contrary I think the censure very severe. The gentleman is not only charged with deviating from the customary forms of decorum in the style of his address to the Chief Magistrate, but he is charged with breaking the harmony that ought to subsist between the different branches of the Government, so far as he had it in his power. In what stronger language can this censure be couched than this? Let us see how far these charges are just. I wish the committee, in regard to the style of the letter, instead of being self-created avengers of the wounded feelings of the President, had imitated his example and forbore to make any comment on the style, and then they would have acted with that prudence their station called for.

"Servant to the same sovereign people." This is the first exceptionable part mentioned, and this was objected to by the gentleman from Massachusetts, because it conveyed a kind of equality which he considered improper. Another gentleman said the word "servant" was objectionable, because it was susceptible of more than one meaning. It certainly has different meanings, but it is impossible to mistake the meaning intended in that letter; as it is there used, it is perfectly correct, and strictly Constitutional. The President, in the Constitution, is assigned an office, the duty attendant on which he is enjoined to fulfil. On not executing that office he is liable to be impeached. He is to receive compensation for his services. He is elected by the people to execute, not his own business, but that of the public. Can it be denied then that he is a public servant? "Filling the honorable station of servant to the same sovereign people." It is impossible to be more correct in respect to the official situation of the President. With respect to the objection on account of the equality which Mr. Randolph had assumed with the President, how is that improper in the light it is there represented? There is, to be sure, much more confidence vested in the President than in any one member of this House; his share of power is much greater, but he certainly is a public servant as well as Mr. Randolph. There may be different degrees among public officers, and this Mr. Randolph conceived when he made the appeal, but that the Legislator and the President are both servants of the people is a correct idea.

The next part of the letter objected to is the introductory part, which the member considers does not require the preface of apology. The meaning of this part has been tortured by the gentleman from Massachusetts to be that Mr. Randolph disclaimed all expectation of public offices, since his opinions were not of a favorite kind, and therefore it was said not to be decorous.

Mr. OTIS.—I said that the meaning was equivocal, and that it might be susceptible of that construction.

Mr. GALLATIN.—Suppose it is susceptible of that meaning, ought we to blame the gentleman for using the word merely because two or more meanings are attached to it, and on that account a forced construction is put upon it? The meaning is perfectly obvious; that if the application was of such a nature as to require apology, he would make it, but he did not think it necessary as it was not: it appears to be only an excuse for not making an apology; for the same reason he says he shall not use the circumlocution of compliment.

Again. The word "demand" was twisted by the gentleman from Virginia (Mr. LEE) to include the idea that Mr. Randolph suspected the President would not do his duty. Surely this is a tortured meaning. The sense in which it was used is no more than this: "I ask it as a matter of right, and not of favor." I will not, however, say of the word "demand," as I have said of the

other part, that it was highly proper. I consider it so harsh that it would have been more prudent to have used some other word.

The committee have thought proper to say that the gentleman has deviated from the decorum customary in official communications. I would then ask, said Mr. G., to what part of the letter these remarks of the committee apply? If it is to the style generally, I would next ask how are we to address ourselves to the President? If a letter to the President is to be called official communication, and by the same rule, if a letter to any other department of the Government is to be called official communication, and in this a certain style is to be observed, then I think we ought to pass a law or resolution to fix a standard of address.

The next objection is to the word "fellow-citizen;" this is substituted in the place of what is frequently used, "most humble and obedient servant." I always subscribe my letters in the latter mode, but that does not appear to be an usual mode with the gentleman; he most likely thinks the other best, because he commonly uses it. Indeed if that gentleman were to address the President in these words, it might not be a correct mode, because he might not be his most humble nor most obedient servant. Indeed we well know that these words are merely complimentary, and no kind of consequence is attached to them. As I do not feel myself possessed of sufficient courage to support the character of a reformer of received customs, I shall not, when they are only absurd, but harmless, pretend to deviate from them, and I do not mean to change my manner in order to assume that used by the gentleman; but he certainly has a right to do it if he thinks proper.

The committee report that the appeal to the Executive is a derogation from the rights of the House. This, said Mr. G., I consider as one of the most heavy charges they could possibly have brought on a member of the House, and on the most slight, not to say absurd, foundation that could have entered their imaginations. We are told, on the one hand, that the officers, whose conduct was complained of, have been guilty of no breach of privilege, and at the same moment that Mr. Randolph has been guilty of a breach of privilege, because he did not call on the House to punish those officers for a breach of privilege.

On what ground does this declaration rest? It is on the principle that the privileges of the House are only cognizable here, and here he ought to have appealed. The position is not correct. It does not follow that because this House had a right to punish a breach of its privileges, the Executive had no right to punish officers under him who were guilty of misconduct. If that did follow, the doctrine would be established that it would be criminal for a member of this House to appeal to any other tribunal for redress than to the House. It would be censurable to appeal to a court of law upon the same principle, and at the same time no redress is to be had here. How inconsistent! We are told by the committee that the complaint does not amount to a breach of

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privilege, and yet, a breach of privilege being only cognizable here, the member is censured for not bringing it here. The gentleman himself said that the very reason why he did not bring it before this House was, because he did not consider it of importance enough to agitate the House on a question of a breach of privilege; he considered the President could afford an ample remedy in the command he possessed; but he is to be censured for not magnifying it beyond the real ideas he possessed of the facts.

Suppose the offence had been of an amount that required greater punishment than this House had power to give: it is well known that the power of this House does not extend to imprisonment beyond the period of its sitting—from this view would it not be an evil precedent to say that no other appeal should be made than to the House? Would it not be saying to these military gentlemen “you may insult our members for expressions used during debate, but take care you do it just before the adjournment of the House, and then you may be sure of escaping punishment altogether.”

I think, said Mr. G., every member has a right to take that mode of redress which he may think right, if two modes present themselves. If the gentlemen thought it did not amount to a breach of privilege, he had a right to appeal as for a personal insult. But because the power of the House, being defined, does not extend to give him redress, and because the President as Commander-in-Chief has it in his power to give it, he is to have none, because he is a member of this House. This is the amount of the argument!

I think Mr. Randolph perfectly justified, in every point of view I can discover, in making the appeal where he did. It is such an appeal as I should have made had I been in his situation, because I should not have thought it proper to trouble the House with a subject for which the President could provide a more efficient and easier remedy. It is for these reasons I think the whole report ought to be recommitted, if it is designed to do justice to the gentleman.

But we are told that a recommitment would amount to a censure on the committee. How is that? Surely the House have a right to express an opinion as well as the committee; the House must be the best judges of their opinion; and if a committee report contrarily, the House have a right to recommit, and a committee have no right to be offended. It is no censure. If it be a censure to recommit a report, it must be a much greater censure to reject a resolution reported by a committee, yet there is not so much said about the resolutions, and gentlemen do not appear so tenacious of them, as about the reported opinion. But resolutions and reports were frequently recommitted, without any degree of censure being apprehended therefrom.

The House were told in an early part of the debate that persons of different political opinions would form different conclusions, and in fact, Mr. G. said, the conduct of gentlemen since had evinced the truth of the suggestion. This was considered as a rallying point, and he was sorry to see

it. He wished party to have nothing to do with this subject; he wished the proceedings on it to stand on the ground of its own merits. Whether the report was recommitted or not, it would stand on its own ground, and if there was censure to be attached to the committee, it would not be affected by the resolution that might be entered into.

Mr. G. concluded by expressing his regret that the whole of the report, which was now considered by some gentlemen only in the light of an opinion entertained and expressed by the committee, had not openly and fairly been submitted to the House in the form of resolutions, by which a vote might be given on them.

Mr. DANA wished, with much sincerity, to declare his full approbation of the conduct of the gentleman in making the subject one of a public nature; it certainly displayed no small victory over his own momentary feelings, to repress those passions which too frequently preponderate in the mind, when he considered himself insulted, and he considered himself a public character. This, said Mr. D., I consider is due to him, but when I say that he has conducted himself with perfect propriety in taking it up in a public and not in a private capacity, I cannot overlook an error which in my opinion he has committed in the choice of tribunal to which he made the appeal. In appealing to the President of the United States, there can be no doubt but the gentleman did it as the “Legislature,” and that he believed the privileges of the body to which he belonged were attacked in him. The President, considering it cognizable in this House, submitted the subject to its consideration; and it will be recollected that a motion was made to refer it to a Committee of Privileges, but that was withdrawn, on the idea that the powers of a Committee of Privileges would not be extensive enough. It certainly then was very proper for that committee to whom it was referred to notice the style of the letter sent to the President, as well as its subject.

But permit me to say, said Mr. D., that whether the language was elegant, or even grammatical, is not worthy of notice; we are not come here to explain the mere schoolboy sense of words; no man who feels the importance of the seat he holds will contend that the President of the United States or this House ought to descend to the boyish business of discussing mere words. The use of the words “fellow-citizen” and “public servant,” I consider as perfectly immaterial; we all have public services to perform, and all act under the Constitution; we are not the masters. If any gentleman then chooses to say we are servants to the sovereign people, he is at liberty to do it. But this kind of language has nothing to do with the republican, more than any other form of Government, and therefore there is no exclusive merit attached to this plainness of address. The station which Mr. Randolph has assigned to himself, in common with the President, is most undoubtedly an honorable station, and the office which he is called to perform he received from the sovereign, and for the sovereign he is to perform it. In this

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way the gentleman has thought proper to indulge his fancy, and wherein is his fault?

This kind of style has the exterior affectation of humility, which may be very grateful to the feelings of the gentleman's constituents, but I am not willing to make use of such a style, nor am I ashamed to differ from the gentleman. If there be any degradation attached to a different manner of expression of my ideas and feelings, I must submit myself to the censure of my constituents, for I do not choose to follow him in that pretended humility. Away with this idle stuff, this affectation! I am willing my constituents should hear me declare that my masters they are not, nor are they my servants. No, sir, they are my worthy friends, and my neighbors. I am their agent, appointed to transact their public business for them: we have one common interest, which it is my duty and my advantage to study; in that I will study to please. I respect their opinion, or I would not serve them; and they respect me, and approve of my mode of managing our common interests, or I should be unworthy of their confidence, and I will venture to say I should not enjoy it. But I will mention an instance or two wherein modest and humiliating language has been used, and yet the most imperious arrogance has been displayed in the conduct.

If the records of history are to be credited, it must, I presume, be sufficiently evident to the enlightened members of this House that, in a different portion of the globe, and at a different period from the present, there has been a public officer, elevated by his success in obtaining votes, who was attended by princes and emperors as his pages, and who broke sceptres and trampled upon crowns; an elective officer whose feet were kissed by prostrate kings, and whose ghostly power humbled the Governments of the civilized world, and arrogated the prerogative of dividing the terraqueous globe; an officer who, by his act of interdiction, exiled the customary offices of civility and humanity, who rescinded political engagements, armed people against their magistrates, dissolved the civil order, and who, notwithstanding all this, professed to be totally unambitious, and to act solely in obedience to the voice of official duty. The rescript which announced the imperious pretensions of office, was attested under the plain seal of the fisherman's ring. Anathemas, which were intended to convulse empires, were fulminated from the Vatican by a person who assumed the humble appellation of servant of servants.

Although this gentleman's extreme humility led him to consider himself a servant of the sovereign people, yet, it is observable, he makes application to the President in the name of his fellow-servants, or of his masters, the people. It is in their name "he orders the execution of his desire;" he certainly assumes a consequence little worthy of that professed humility. Indeed there is a general strain of imperiousness running through the whole of the appeal, which no analysis can destroy, although the most ingenious attempts have been made.

But, said Mr. D., the gentleman has not addressed the President in a style of request, nor in

language which the necessity of the case impelled him to, but in a manner which merits attention, and the conclusion of the letter particularly so: "In addressing you in the plain language of man, I give you, sir, the best proof that I can afford, of the estimation in which I hold your office and your understanding." To make every possible apology for the different idioms of the English language, every gentleman must know that this is not an usual nor a respectful manner of address. It is well known that the President is too well acquainted with the powers of the English language to mistake the meaning of plain words. It is not usual to tell the President, in our communications with him, that we respect his office and his understanding. The construction is sufficiently obvious. But if there was a doubt of the President's failure in his duty, the gentleman ought to have spoken plainly, and not have thrown out insinuations, implying doubts. If I thought he could not or would not act with integrity, I would go further, and make the charge to this House.

The gentleman from Pennsylvania introduced a reason for the application to the President in preference to this House, because this House are not able to inflict all the punishment which may be necessary for a breach of privilege.

Wherein is the power of this House defined or limited in this particular? If it be defined at all, it is by parliamentary usage, and by principles of common law. I admit, with that gentleman, that our power is limited to imprisonment during the session. But is this a reason why we are not to judge of the extent of a violation of our privileges, and the punishment that violation merits? Can any other body of men judge what affects our privileges, and to what extent? If it is the privilege of the members of this House to debate freely, who can judge but them how far that privilege is attacked? If the gentleman will consult Parliamentary history he will find that a Legislative body might inflict a punishment to any extent a crime of this sort might deserve; if the imprisonment during the session is too short, by application to the proper officer, the punishment can be extended to any length the crime merits. If the privileges are infringed by officers of the army, it is the business of the House alone to judge how far the punishment shall be inflicted; and if the House should not otherwise carry it so far as the crime merited, it could be completely carried into effect by applying to the commanding officer.

I, therefore, consider this House perfectly competent to afford an ample remedy, and the only proper tribunal to which an appeal is to be made for justice; and I consider, also, that any member of this House making application, on the score of privilege, to any other authority, is at once yielding the first principles of the privileges of the Legislature, and himself making inroads upon the rights of the House.

As it respects the decorum necessary to be observed towards the members of this House, whenever we undertake to judge on this subject, our conduct ought to be measured by the circum-

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stances. If the freedom of debate is among the most precious privileges of the Legislative body, and ought to be preserved inviolate, I am sure gentlemen will also acknowledge, with me, that the dearest privilege of a military man is his honor. Admitting, then, that these officers did repeat the words referred to in the testimony, admit that they repeated them—yet, I contend, that the mere repetition of words is not, nor cannot be, construed to violate our privileges. However harsh the words, if unconnected with menace or assault, it is not breach of privilege.

The fact is, the words which were repeated, were very improper to use in this House; but they were used, and could not avoid mortifying gentlemen in the military line. Sir, if they had not felt the force of the words "mercenary," and "ragamuffin," as used in application to the army, they could not have had American spirit in them; they must have been devoid of every sense of honor, if they had not felt the words when spoken in this House, which ought to be the temple of honor as much as the temple of liberty; but they felt them, and on that occasion they showed their sense of it.

What would our soldiers think if they knew these words were used to reproach them? But the term *ragamuffin* is incorrect; our soldiers are not clothed in rags, but if they were, it would not detract from their bravery or their usefulness. Let it be remembered, that men clothed in rags have ere now marked the frozen earth with the blood of their footsteps—they have fought heroically—they have conquered. These *ragamuffins*, though not clothed like members of this House, are yet brave—they are mindful of their country's interest and safety, and therefore they are valuable, instead of meriting reproach and disdain.

The term *mercenary* was also repeated. If by *mercenary* is meant menial braves—men who put themselves up to public auction, and are sold to the highest bidder, who regard not the cause they engage in, but make interest their aim, they truly are mercenaries. But if they are so base, where is the honor of the Government who suffer it? Sir, it is not so with our soldiers. 'Tis true they serve their country for pay; but if to receive wages for service means *mercenary*, the Legislative body is *mercenary*, the Government itself is *mercenary*, and the people altogether are a *mercenary* people. But happily this language could not be properly applied to the army—they are not that contemptible part of society which they are represented to be, and therefore those degrading terms were improper, as they were unnecessary and aggravating.

The use of the words by the member must have affected the feelings of these officers, and no doubt they repeated them that he might hear, and that he might know that they were noticed. But it appears to me, said Mr. D., that they were used more to produce sport than anything else; for, although they might have felt something unpleasant in their first impressions, they well knew that their military honor and that of their comrades

could not be shaken by aspersions which they knew were unfounded.

Mr. HARPER said, however he might agree with the gentleman from Pennsylvania on some points, he could not accede to every one which he had stated; but in order to bring, with more force, the disagreement to view, he would mention them.

I concur, said Mr. H., that this is not, nor ought to be called a party question. I did hope that a style of language would have been observed that would have entirely excluded the word *party* from this floor. I think decorum of debate ought to be so far observed as to prevent the word being pronounced. I think every allusion to a party in the country merits a call to order. As to the merits of the question, I declare that I view it as a question between the country and A, and whether A stands on one side of an imaginary line or the other, my declarations will be precisely the same. I disclaim all such paltry motives as any party attachments must evince, and therefore I declare that the rights and honor of the Legislature will be my only aim in discussing the merits of this question.

I concur, also, that the style of the letter was not noticed by the President, and that he felt no insult from it. No, sir, his mind moves in a sphere too exalted; his character is grounded on a basis too broad, for him to feel what in itself was extremely insignificant. The dignity of his mind, his long and respectable standing in this country, raise him far above the danger which any deficiency in the respect of an individual could threaten.

I agree also that the report of the committee does absolutely convey a censure upon the member from Virginia. It is because it does convey a censure that I approve of it; it is because I consider it a strong censure that I shall vote against the recommitment. On what account is this censure reported? Is it because of any boyish style of phraseology, as fellow-citizen, &c.? No, sir, I conceive it is because the committee thought, what I think, that the letter conveys to the President an imperious order. It is upon account of the general tenor of the appeal, implying a command to do—what? To redress an injury? No, sir, but to avenge himself of a supposed affront. In what manner is this affront stated? Is the President told how this was done? No, sir.

Forms of respect, Mr. H. said, were not matters of reasoning, but of sentiment and feeling; he appealed to the impressions this letter, when it was first read, made on every member of the House, whether it was not as he stated it. No member but the gentleman from Maryland (Mr. NICHOLSON) had approved of the style of the letter; to be sure, he had said he would not have expunged a word from it, had he been consulted, but in this declaration he certainly must have misrepresented his own judgment.

The gentleman from Pennsylvania had produced an example of some Friends who addressed King James II. in plainness of speech, in order to prove that respect did not consist in expressions. As this example was an extremely happy one to

prove the point he wished to maintain, Mr. H. would read it again, and appeal to the good sense of the House to decide whether an address could possibly be couched in terms more perfectly respectful. [He here read the quotation from Hume's *England*, and in a few comments, hoped the example would have a good effect.]

Another ground of reprehension which has been spoken of, and in which I agree with the committee, is, because the member applied to the Executive—this is essentially derogatory to the honor of the Legislature. Gentlemen here bring into view assault and battery, and ask whether, if it had proceeded so far, he would not have a right to an action in a judicial court? Yes, he would. And in this case he had a right to appeal to the President. But the moment he speaks of privilege, this House, and this alone, has cognizance. Here is the true distinction which the gentleman from Pennsylvania, with all his ingenuity, has overlooked. If the gentleman had been assaulted, he might have taken his case before a grand jury, but the question of privilege never could come before a grand jury. In this case, it is not for a breach of law in his person that the gentleman appeals, but for a breach of privilege. His words are, "the independence of the legislator has been infringed." In this application, what could be meant but that the President ought to punish for a breach of privilege? This certainly was the ground of appeal, and, being so plain a fact, it requires no animadversions to prove it derogatory to the rights of this House; and if they cannot prevent a breach of privilege from its own members, it will not be respected by others. I do not believe the gentleman intended to act derogatory to the honor and privilege of this House, but such having been the case, I think it ought to be noticed.

But it is further said in support of the motion to recommit, that the committee had no power to report in the manner they have done, and that they had no power to make remarks on the style of the letter. But I contend that if a letter written by a member of this House is submitted to them, they have a right to report their opinion upon the contents of it. To be silent on it would be the same as to approve of it, and that neither the committee nor the House ought to do, and I trust will not do.

With respect to the words used and conduct of these officers, Mr. H. agreed, that if offensive words were repeated to Mr. Randolph on account of words used in this House, or if offensive words were coupled with offensive actions, in either case it is a breach of privilege. But he denied that any words, offensive in themselves, had been used, or that any act of an offensive nature was perpetrated or conceived.

Mr. H. then explained the nature of a breach of privilege, and called up an example to illustrate his ideas. He then proceeded to a comparison of the testimony of Mr. Christie, with the facts as they appeared from the testimony of other witnesses, and concluded that in the fact respecting the whispering of these officers, and the use of the words "he does not hear you, go nearer to

him," he must have misconceived. He recurred to the place in which Mr. Christie's testimony related to the use of the words; to wit, for some time in the adjoining box, till they afterwards came round into the same box. Mr. Macon's and Mr. Glen's testimony on the contrary proved that they came into the same box immediately after they returned from supper, or before the farce began. Thus, however honest, Mr. H. could not but conclude the gentleman was certainly mistaken. This he said was not singular, for such things frequently happened in courts, and yet did not impair the personal respectability of the witness, although it must that part of his evidence.

With respect to the act of sitting down, or if you please, pressing himself by the side of Mr. Randolph, Mr. McKnight could only at most be thought rude. This kind of conduct is well known to be common at the theatre, and frequently done without apology. This might have been done innocently, or it might have been done on purpose to offend, but since the custom is frequent it cannot be noticed as a breach of privilege.

The next act was pulling the coat—an act which, if done in order to offend Mr. Randolph, would have been an act of violence which ought to place the offender at the bar of this House, and if the fact had been proved he ought to have been punished. But when it is considered that the violence of the crowd in going out of the theatre was such as to separate Mr. Taylor from Mr. McKnight, it will cease to appear an offence; but Mr. Taylor was not offended at being caught hold of by the other arm by some strange person, because he knew it might be an effort to prevent falling. Might not the same excuse stand good as to pulling the coat? It appeared to be no other than an effort which the crowd caused, and therefore a mere accident, and as such ought to be excused. Indeed the gentleman had declared that he did the act, but he did it by accident, and very moderately. Shall a man be punished for this act merely, especially since there is no evidence whatever that he did it at all, (for his own confession cannot be admitted.) The fact is, the pulling of the coat, and the other act, is quite out of the question; nothing remains but the simple repetition of certain words made use of by the member in his place.

I do not believe, said Mr. H., that the very same thing would have happened if the gentleman had not been there; but he being there, I also believe that the words were used with a design that he should hear them, but not with a wish to breed a quarrel. This conclusion is established by the facts—there was no quarrel, and had they designed to promote one, it would have occurred. When the coat was pulled, words were used by Mr. Randolph, which, if that event had been designed, would have been taken up for that purpose by Mr. McKnight.

Is this then a breach of privilege? No, sir, it is not. It might have led to a breach of privilege, it is true; opprobrious language and a quarrel might have grown out of it, and then it would

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have been a breach of privilege, because it was on account of the gentleman's public conduct in the House; but that there was no intention to commit a breach of privilege, and that no such thing was committed, I think too clear to be controverted.

Mr. SMITH said, that he had intended to take no further part in the present debate. But the manner in which the testimony of his colleague (Mr. Christie) had been treated by the gentleman who has just sat down (Mr. HARPER) induced him to delay the decision for a few minutes. That gentleman calls himself a county-court lawyer; that being such he was in the habit of sifting testimony and examining it with great care—that the custom he had practised in the county courts he should pursue on the present occasion. He then proceeded, in a manner not the most candid, to criticise the positive evidence given by Mr. Christie, which I presume he has learnt in the county courts, but which all will agree ought not to be practised in the Legislature of the United States. Permit me here to observe, that few gentlemen of this House will suffer themselves to be compelled to give testimony in any case pending before the House, if they are to have their positive depositions doubted thus publicly, criticised and rebutted by testimony vague and not decisive, as if they were evidences of bad or doubtful characters, before a county court. The gentleman (Mr. HARPER) ought at least, before he had been thus severe, to have examined the testimony more carefully. I have heard that some gentlemen in the courts are in the habit of bringing forward only such parts of the evidence as best will suit their client—a practice which in this case the gentleman has introduced into the present debate; a practice, however, that I trust will never be countenanced in the case. The gentleman (Mr. H.) says, that Mr. Christie must be mistaken, when, in his deposition, he states, that the transaction “commenced during the play,” and equally so when he says, that “he discovered the officers in an adjoining box;” for that the testimony of all the other witnesses agree that it commenced after the play was over, and that he would prove by the testimony of Mr. Macon and Lieutenant Thompson, that the officers were not at that time in an adjoining box, but in that which Mr. Randolph sat. Mr. Christie does not say that the transaction commenced during the play; of course he has been misstated by the gentleman from South Carolina; misstating may (for aught Mr. S. knew) be a proper practice for county courts, but certainly not very decent in this case for a member of this honorable body.

What has Mr. Christie said? The words in his deposition are, “after the play was over, and about the time the farce was beginning, I discovered, in an adjoining box, Captain McKnight and a gentleman whose name I have since found to be Reynolds, both officers of the navy; I saw also in company with them Mr. George Taylor, of this city; I saw them repeatedly look at our box and whisper to each other.” To prove they were in the adjoining box, the gentleman (Mr.

H.) has rebutted this positive testimony of Mr. Christie with the testimony of Mr. Macon and Lieutenant Thompson. The words read by the gentleman out of Mr. Macon's testimony, do not say whether the officers were or were not in the adjoining box, yet he says Mr. Christie must be mistaken. This, sir, is a strange mode of reasoning, and certainly would be laughed at if used at the bar. Had the gentleman sifted further the testimony of Mr. Macon, he would have seen words rather confirming the testimony of Mr. Christie, but not one contradiction. Lieutenant Thompson, on whose testimony the gentleman (Mr. H.) has placed his chief reliance, says, “Captain McKnight, with several other gentlemen and myself, went to a public house and supped together; on our return to the playhouse, Captain McKnight went into the box where Mr. Randolph was, and remained there during the farce, or was there most of the time.” In this, Lieutenant Thompson does not say that they went into Mr. Randolph's box previous to their having gone into the adjoining box. His testimony, although vague as to that point, has been thought sufficient to refute the positive testimony of Mr. Christie. In another place, Mr. Thompson, answering a query, says: “We were either in the adjoining boxes, or it may be in the same box for a little time.” But, sir, if I prove, by the acknowledgment of the party accused, that Mr. Christie was not mistaken when he said that the officers were “in the adjoining box,” I trust that this House will agree with me that the attack made on my colleague has been without any evidence to support it, and I trust the gentleman (Mr. HARPER) will have the candor to acknowledge to the House the error he has committed, and the politeness to apologise to Mr. Christie for the unmerited censure he has endeavored to fix upon him. Lieutenant Reynolds, one of the officers accused, states that, “during the performance of ‘Blue Beard,’ there appeared on the stage a number of strange figures, when one of the gentlemen present made use of the expression, that the ragamuffins would make a much better appearance, to which I replied, that could not be doubted; but as to my knowing of Mr. Randolph being in the adjoining box, I did not, until I heard some one behind me mention it.” I trust the House will be of opinion that nothing more will be necessary to confirm the correctness of the testimony of Mr. Christie.

What is the peculiarity or impropriety of style alluded to? Two gentlemen from Massachusetts have declared certain parts of the letter improper; another gentleman (Mr. LEE) has declared those very parts they complained of to be proper. On which of these gentlemen's judgment are we to place most reliance? The fact is, according to our different habits and customs, so will our judgment on a subject like this be guided, and by habits are we led to say what is not an offensive style. As, therefore, there is no acknowledged courtly style known in America, we are not warranted to cast a censure on the gentleman who had used a species of language which to him perhaps is most

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familiar. The gentlemen from Massachusetts (Messrs. SEWALL and OTIS,) and from Connecticut, (Mr. EDMOND,) say there is no censure included in the words of the report; others say there is. I thought there was, and, therefore, I made the motion of recommitment. What more severe language can be used, sir, than that of the report? It is, in my opinion, the most severe censure that possibly could come from the pen of a committee. Our judgment, even on this point, may differ, according to habit. It is well known that there is a coolness of temper, which is not easily irritated; harsh and severe words will not raise the habitual temper of some men in the world, while in others, nothing can exceed the offence which habit and natural warmth of temper would construe the same words into. I consider these words are offensive, and I confess it appears to me extraordinary that those gentlemen who do not consider them so, and who represent them as quite innocent and unimportant, should appear so very averse to their being stricken out. In my opinion, it would have evinced the candor of gentlemen if they had suffered the report to have been recommitment; it certainly was unfair to introduce a censure by report; had it been done by resolution, we could then have given our opinion, and our vote upon the subject; but the committee having issued their censure by report, we have no means, but by recommitment, to get rid of the offensive matter.

Gentlemen have said that it would be casting a censure on the committee to reconsider the report. If so, how often do we censure different committees of the House? How often are reports recommitment? The practice is common. If the principle is to be adopted, that we must not recommit a report for fear of offending a committee, we may as well make their decision final; upon the same ground we must not alter their resolutions.

I do not mean, said Mr. S., to go into the resolutions; I think they might be modified; upon this subject I would not wish severity. I well recollect that when I was an officer in the army, at the age of the young gentlemen, I should have felt as they did; perhaps I should have done more—my youthful zeal for the honor of the army might have excited me to actions which would have actually brought on a quarrel with the gentleman. I think there can be no doubt, from a review of the whole of this testimony, but the gentlemen accused meant to produce a quarrel; that they did not do it was owing to the moderation of the gentleman.

Gentlemen say mere words are not cause of quarrel! Nothing but violence, in the opinion of those gentlemen, is cause. Sir, I consider words may be worse than blows; words may destroy a man's fame and his honor; blows can be cured, by making the party answer with his life for the offence. We should be careful of countenancing the impetuosity of young officers' tempers, lest we place ourselves in a situation which can little promote the good of the country.

It appears to be the opinion of the committee, that no notice ought to be taken of the conduct of

the officers; on the contrary, they actually have attacked the conduct of the gentleman himself, for disrespect to the President. But this is said only to be the opinion of the committee. Sir, the report goes out to the world under the sanction of this House, and in this view it becomes one of its acts. In this view it is casting a Legislative censure on a member! From these views, and because we could not otherwise come at the report, I moved to recommit it; in which I do hope a majority of this House will concur, in order that we may avoid injustice to the gentleman; but without any view of inflicting punishment on the officers.

Mr. SHEPARD.—I wish to ask the House what we are about? I think we are debating on a matter of very little consequence indeed. The question is, whether the report of the select committee shall be recommitment or not. How did this committee come to have the matter before them? It was on account of a few impertinent words which fell from the member from Virginia—a young member, and therefore he certainly was the more excusable. These words struck hard at the young gentlemen of the army. They resented it. I like them all the better for it, Mr. Speaker; they were commendable in showing their resentment at any degrading terms used about the army. Where are we going to end? Gentlemen get up, one after another, repeating the same things over and over, and making no new remarks, no new ideas. Sir, we are only degrading ourselves and lessening the dignity of the House by continuing a debate of so little consequence. It is high time to take the question. Not all that can be said more will alter the mind of a single member; they are already determined how to vote. I hope, Mr. Speaker, that gentlemen will shorten this debate, and spend their great talents on subjects more honorable to them and to the House. I will then listen to them with the greatest pleasure and patience to the last moment.

Mr. CHRISTIE thought the gentleman from South Carolina, and some other gentlemen, had gone too far in their criticisms on testimony. Mr. C. said he declared only what he knew to be true, but yet it was said he must be mistaken? How mistaken? He only repeated upon oath words which were positively uttered, and in a place about which he could not be mistaken. Every incidental word of that testimony, Mr. C. said, came under his particular observation. But one lawyer had got up and thought him mistaken in one instance, another in another; another might presently get up and question whether he was at the theatre at all or not. Upon my word, said Mr. C., I do not know what these county-court lawyers cannot do, or how far their habits of culling testimony may lead them. Had I known the manner in which my testimony would have been treated, I should have been very unwilling to have obeyed the commands of the House to give it at all; and I believe in future it will be likely to have that effect upon me.

Mr. RANDOLPH said he would call the attention of the House to a single observation.

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The situation, Mr. Speaker, in which I find myself is indeed new to me—standing upon your floor not as a person aggrieved, but in the character of a criminal. And with what, sir, am I charged? With “transferring the authority of this House to the President of the United States, by appealing to that Magistrate, in the name of the Legislature, on an occasion wherein its privileges had been infringed.”

I have “appealed in the name of the Legislature!” Although this opinion has not been advanced by the committee in direct terms, it seems to have gained the assent of many members on this floor. Will those gentlemen who are so ready to suppose me capable of this monstrous absurdity, advert to the error of the press in the printed report, which has substituted that word for *legislator*? Will they take the trouble of turning to the original letter? They will then discover that I have not assumed to myself the right of acting in the name, not of this House only, but of both branches of Congress, unsupported by the authority of either. They will see that the relative *their* can have reference only to the antecedent “*people*,” and that as the representative of *their* majesty which had been insulted; as clothed with their authority which had been contemned; as the Commander-in-Chief of their forces, did the President become the object of my application.

I have “prostrated the privileges of this House before the shrine of Executive power.” And can any one suppose, Mr. Speaker, that it is my desire to enlarge the Executive authority at the expense of the Legislative; to confide your rights to the unsafe guardianship of the President; and to hold at his will the inestimable privilege of free debate? I am under no apprehension, sir, that a serious belief of such an intention on my part can be entertained by any one who is at all acquainted with my political opinions—opinions hostile to the extension of Executive influence, and which inculcate a well-grounded jealousy of its formidable pretensions. But, sir, in relation to the fact: how does that stand? Will gentlemen carry their recollection back to the period when my letter was submitted by the President to their consideration? Did I not contest your right to extend your privileges beyond those limits which the Constitution had prescribed; did I not express a fear least a dangerous precedent might be established which would lead to terrible abuses—which would be prostituted to the most nefarious purposes; and did I not oppose a reference of the Message, upon the ground that there had been no breach of privilege? The committee agrees with me in this opinion, and it has received the concurrence of the House. Yet that very committee has determined (and you are about to affirm the decree) that I have submitted to the decision of the President a case involving the privileges of the representative body, although they have declared (and although this House has sanctioned the declaration) that no such case has occurred; although it is in evidence to you such was my own impression of the subject. If, Mr. Speaker, my

opinion of the case had been that it was a breach of privilege, or if such had been the sentiment of the House, then, indeed, there might have been some ground for crimination. If I had viewed it in this light, where would have been the difficulty of addressing my application to yourself? But it will be remembered, that at the time when the Message was delivered, at the time when I disclaimed the idea of a breach of privilege or of your protection, I made this declaration. But it was in his military capacity that I addressed myself to the President; because I supposed the discretion of the Commander-in-Chief would suggest the necessity of a provision, to which his authority was completely adequate, which would remedy the present instance of misconduct, and repress those of a similar nature in future. Can a representation to the Commander-in-Chief of the misbehaviour of his subalterns, in a case not amounting to a breach of privilege, (for the committee and the House unite with me in this opinion)—can a statement of this outrage, because aggravated by the consideration of the official conduct which excited it, and of the legislative character which was its object—can an application to a military tribunal for remedy, to whose provision this House is not competent, for an offence in which its privileges are not implicated, can such a procedure attract your censure, “as derogating from those rights with which your honor, your independence, and the inviolability of your members, are intimately connected?”

It was my intention, Mr. Speaker, to explain the error into which we should be led by adopting the expression of the printed report, and to recall to the minds of gentlemen a chain of facts which display in a proper light the motives by which I have been actuated. It formed no part of my design to enter into any explanation of the various clauses and expressions of my letter, which have become the object of the very ingenious criticism of many members upon this floor; if, indeed, such had been my intention, I should have been anticipated by the candid illustration of the gentleman from Pennsylvania, (Mr. GALLATIN.) His exposition is warranted both by the literal sense of the composition which has become the object of so much virulent invective, and by that which the author has even affixed to the expressions which he has thought proper to use.

I join with the gentleman from Massachusetts in the wish that the question might be immediately taken. Whatever the success of the motion, so far as relates to myself, it is a matter of indifference to me. It was under no expectation of averting the censure of the House that I have now addressed it. I entertain not a doubt upon the issue. But in the unshaken conviction of the propriety of my procedure, and in the approbation of my constituents, whose honor and whose interests it will ever be my object to maintain, I can have no cause of personal regret.

The question was then taken upon recommitting the report, and was decided in the negative—yeas 43, nays 50, as follows:

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YEAS—Willis Alston, Theodorus Bailey, Phaniel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Gallatin, Edwin Gray, Andrew Gregg, John A. Hanna, Thomas Hartley, Joseph Heister, David Holmes, George Jackson, James Jones, Michael Leib, Matthew Lyon, James Linn, Edward Livingston, Nathaniel Macon, Peter Muhlenberg, John Nicholas, Joseph H. Nicholson, John Smilie, Samuel Smith, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, and Robert Williams.

NAYS—George Baer, Bailey Bartlett, James A. Bayard, Jonathan Brace, John Brown, William Cooper, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Archibald Henderson, William H. Hill, Benjamin Huger, James H. Imlay, John Wilkes Kittera, Henry Lee, Silas Lee, Samuel Lyman, John Marshall, Lewis R. Morris, Harrison G. Otis, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, John Rutledge, junior, Samuel Sewall, James Sheafe, William Shepard, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

Resolved, That the order for a call of the House this day be dispensed with, and that there be a call of the House on Thursday next, at two o'clock.

—
WEDNESDAY, January 29.

Mr. GRISWOLD, from the Committee of Revisal and Unfinished Business, to whom it was referred to examine and report what laws of the United States have expired, or are near expiring, made a further report, in part; which was read and considered. Whereupon,

Resolved, That a committee be appointed to prepare and report a bill to continue in force an act entitled "An act providing the means of intercourse between the United States and foreign nations."

Ordered, That a bill or bills be brought in, pursuant to the said resolution, and that the Committee of Revisal and Unfinished Business do prepare and bring in the same.

Mr. GRISWOLD, from the Committee of Revisal and Unfinished Business, to whom it was referred, on the thirteenth instant, to prepare and report a bill to continue in force, "An act declaring the consent of Congress to a certain act of the State of Maryland, and to continue an act declaring the consent of Congress to certain acts of the States of Maryland, Georgia, and Rhode Island and Providence Plantations, so far as the same respects the States of Georgia and Rhode Island," reported a bill declaring the assent of Congress to certain acts of the States of Rhode Island, Maryland, and Georgia; which was read twice, and committed to a Committee of the Whole House on Monday next.

CASE OF MR. RANDOLPH.

The House resumed the consideration of the report of the committee, to whom was referred, on the fourteenth instant, the Message of the President of the United States, together with a letter of JOHN RANDOLPH, Jr., a member of this House from the State of Virginia: and the same being again read, in the words following, to wit:

"In executing the task assigned to them, it is with peculiar satisfaction your committee notice the respect shown in his Message by the President of the United States, to the rights and privileges of the House.

"On the style of the letter to the President, referred to the consideration of the committee, they forbear any other remark than to express their regret that a member of the House has conceived himself justified in deviating from the forms of decorum customary in official communications to the Chief Magistrate of the United States, justly due to his office and character, and essential to that harmony between the different branches of the Government, which should be circumspectly cherished by their respective members.

"In Mr. Randolph's letter, he states, that for words of a general nature, uttered in debate in the House of Representatives, on the proposition for reducing the Army, he had been publicly and grossly insulted by several persons, officers of the Army or Navy; and demands, of the Executive authority, redress for an attack on his independence and rights as a legislator.

"Your committee, being of opinion that the matter of complaint respects the privileges of the House, inherent in its own body, and there exclusively cognizable, cannot but consider the appeal, in this instance, to the Executive authority, however otherwise intended, as derogating from those rights of the House with which are intimately connected both its honor and independence, and the inviolability of its members.

"Your committee further report that, on inquiry, they found James McKnight, Captain, and Michael Reynolds, Lieutenant, of Marines, to be the persons implicated in Mr. Randolph's charge. They, on notice, appeared before the committee, and denied the truth of the allegations. The committee have collected all the evidence they could find to be material in the case, and heard the parties accused, with their witnesses; and, although they believe a series of circumstances to have taken place at the theatre, on the evening of Friday, the 10th instant, which appeared to Mr. Randolph, and others present, to evince premeditated insult towards him, yet, as some of those circumstances have been satisfactorily explained, and others are of a nature too equivocal to justify reprehension and punishment, your committee are of opinion that sufficient cause does not appear for the interference of the House, on the ground of a breach of their privileges.

"Your committee have taken the evidence in writing, which they submit to the consideration of the House, with the following resolutions:

Resolved, That this House entertain a respectful sense of the regard which the President of the United States has shown to its rights and privileges, in his Message of the 14th instant, accompanied by a letter addressed to him by John Randolph, jun., a member of this House.

Resolved, That in respect to the charge alleged by John Randolph, jun., a member of this House, in his letter addressed to the President of the United States, on the 11th instant, and by him submitted to the consideration of the House, that sufficient cause does not

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appear for the interposition of this House, on the ground of a breach of its privileges."

The question was taken, that the House do agree to the first resolution contained in the said report, and resolved in the affirmative.

The second resolution being under consideration, a motion was made and seconded to amend the same by inserting, before the word "sufficient," in the fifth line, the words "although the conduct of Captain McKnight and Lieutenant Reynolds was indiscreet and improper, yet," and to insert, before the word "interposition," in the sixth line, the word "further." Whereupon,

It was further moved and seconded to amend the said amendment, by inserting, after the word "improper," the words "and deserves reprehension."

And the question being taken, that the House do agree to the same, it passed in the negative—yeas 42, nays 56, as follows:

YEAS—Willis Alston, Theodorus Bailey, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, Thomas T. Davis, John Dawson, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Gallatin, Samuel Goode, Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, Benjamin Huger, George Jackson, James Jones, Aaron Kitchell, Michael Leib, Matthew Lyon, James Linn, Edward Livingston, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, John Smilie, Samuel Smith, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, and Philip Van Cortlandt.

NAYS—George Baer, Bailey Bartlett, John Bird, Jonathan Brace, John Brown, Christopher G. Champlin, William Cooper, William Craik, Samuel W. Dana, John Davenport, John Dennis, George Dent, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, Archibald Henderson, William H. Hill, James H. Imlay, John Wilkes Kittera, Henry Lee, Samuel Lyman, Nathaniel Macon, John Marshall, Lewis R. Morris, Abraham Nott, Harrison G. Otis, Robert Page, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, Samuel Sewall, James Sheafe, William Shepard, Richard Dobbs Spaight, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, Robert Williams, Lemuel Williams, and Henry Woods.

The question was then taken, that the House do agree to the amendment as originally proposed to the said second resolution, and resolved in the affirmative—yeas 61, nays 39, as follows:

YEAS—Willis Alston, George Baer, Theodorus Bailey, Bailey Bartlett, John Bird, Phanuel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, Thomas T. Davis, John Dawson, George Dent, Joseph Dickson, Joseph Eggleston, Lucas Elmendorf, Thomas Evans, John Fowler, Albert Gallatin, Samuel Goode, William Gordon, Edwin Gray, Andrew Gregg, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Thomas Hartley, Joseph Heister, David Holmes, Benjamin Huger, George Jackson, James Jones, Aaron Kitchell,

Henry Lee, Michael Leib, Matthew Lyon, James Linn, Edward Livingston, John Marshall, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, Robert Page, Josiah Parker, Thomas Pinckney, Leven Powell, John Reed, James Sheafe, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, Richard Thomas, John Thomson, John Trigg, and Philip Van Cortlandt.

NAYS—James A. Bayard, Jonathan Brace, John Brown, Christopher G. Champlin, William Cooper, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, William Edmond, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, Archibald Henderson, James H. Imlay, John Wilkes Kittera, Silas Lee, Samuel Lyman, Nathaniel Macon, Lewis R. Morris, Abraham Nott, Harrison G. Otis, Jonas Platt, Samuel Sewall, William Shepard, John Smilie, George Thatcher, John Chew Thomas, Abram Trigg, Peleg Wadsworth, Robert Waln, Robert Williams, Lemuel Williams, and Henry Woods.

And then the main question being taken to agree to the said second resolution as amended, it passed in the negative—yeas 49, nays 51, as follows:

YEAS—George Baer, Bailey Bartlett, James A. Bayard, John Bird, Jonathan Brace, Robert Brown, Christopher G. Champlin, William Cooper, Franklin Davenport, John Dennis, George Dent, Joseph Dickson, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Samuel Goode, Chauncey Goodrich, William Gordon, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Thomas Hartley, Archibald Henderson, Benjamin Huger, James H. Imlay, Henry Lee, Silas Lee, John Marshall, Lewis R. Morris, Harrison G. Otis, Robert Page, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, Samuel Sewall, James Sheafe, William Shepard, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, George Thatcher, Richard Thomas, Philip Van Cortlandt, Peleg Wadsworth, and Lemuel Williams.

NAYS—Willis Alston, Theodorus Bailey, Phanuel Bishop, John Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William Charles Cole Claiborne, John Condit, William Craik, Samuel W. Dana, John Davenport, Thomas T. Davis, John Dawson, William Edmond, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Gallatin, Elizur Goodrich, Edwin Gray, Andrew Gregg, Roger Griswold, Joseph Heister, David Holmes, George Jackson, James Jones, Aaron Kitchell, John Wilkes Kittera, Michael Leib, Samuel Lyman, Matthew Lyon, James Linn, Edward Livingston, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, Abraham Nott, John Smilie, David Stone, Thomas Sumter, Benjamin Taliaferro, John Chew Thomas, John Thompson, Abram Trigg, John Trigg, Robert Waln, Robert Williams, and Henry Woods.

A motion was then made and seconded that the House do come to the following resolution, to wit:

Resolved, That this House do highly disapprove of the conduct of Captain McKnight and Lieutenant Reynolds, towards John Randolph, a member of this House, on the evening of Friday, the tenth instant; but, considering it as an indiscretion of youth, are unwilling to exercise their constitutional authority of punishment,

under a hope that similar instances of misconduct will not occur in future.

The SPEAKER deciding the said motion not to be in order, an appeal was made to the House from the decision of the Chair; and the question being taken that the House do concur with the SPEAKER in his said decision, it was resolved in the affirmative—yeas 56, nays 42, as follows:

YEAS—George Baer, Bailey Bartlett, James A. Bayard, John Bird, Jonathan Brace, John Brown, Christopher G. Champlin, William C. C. Claiborne, William Cooper, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Samuel Goode, Chauncey Goodrich, Elizur Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Archibald Henderson, Benjamin Huger, James H. Inlay, Aaron Kitchell, John Wilkes Kittera, Henry Lee, Silas Lee, Samuel Lyman, John Marshall, Lewis R. Morris, Abraham Nott, Harrison G. Otis, Robert Page, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, Samuel Sewall, James Sheafe, William Shepard, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

NAYS—Willis Alston, Theodorus Bailey, Phaniel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, John Condit, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Gallatin, Edwin Gray, Andrew Gregg, Joseph Heister, David Holmes, George Jackson, James Jones, Michael Leib, Matthew Lyon, James Linn, Edward Livingston, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, John Randolph, John Smilie, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, and Robert Williams.

And so the said motion was rejected.

THURSDAY, January 30.

Ordered, That the Committee of the Whole House to whom is committed the bill for the reform of the Superior Court in the Territory of the United States Northwest of the Ohio river, be discharged from the further consideration thereof, and that the said bill be recommitted to Mr. CRAIK, Mr. HARRISON, and Mr. BIRD, with instruction to report their opinion on the expediency of dividing the said Territory into two distinct governments: *Provided*, That the line of division shall commence at the mouth of the Great Miami river, and run due north until it strikes the dividing line between the United States and Canada.

Resolved, That the order for a call of the House this day, at two o'clock, be rescinded.

The House proceeded in the third reading of the bill to establish a uniform system of bankruptcy throughout the United States: Whereupon,

Ordered, That the said bill be recommitted to a Committee of the whole House immediately.

The House accordingly resolved itself into the

said Committee; and, after some time spent therein, the Committee rose and reported several amendments thereto.

And then the House adjourned.

FRIDAY, January 31.

Mr. GRISWOLD, from the Committee of Revisal and Unfinished Business, made a further report, in part; which was read and considered: Whereupon,

Resolved, That the Committee of Revisal and Unfinished Business do prepare and report a bill to revive and continue in force an act entitled "An act respecting the Mint."

A message was received from the Senate, informing the House that they had passed the bill, entitled "An act providing for salvage in cases of recapture," with several amendments; to which they desire the concurrence of this House.

The said amendments were read, and ordered to be referred to the Committee of Commerce and Manufactures.

The House proceeded to consider the report of the Committee of Revisal and Unfinished Business, made the twenty-third instant, to whom were referred the amendments of the Senate to the bill to repeal part of an act, entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned;" and the said report and amendments of the Senate, being again read,

Resolved, That this House doth agree to the first amendment proposed by the Senate to the said bill.

Resolved, That this House doth agree to the other amendments of the Senate, with amendments.

Ordered, That the Clerk of this House do acquaint the Senate therewith.

The House resolved itself into a Committee of the whole House on the bill to discharge Robert Sturgeon from his imprisonment; and, after spending some time therein, the Committee rose and reported the bill without amendment.

Ordered, That the said bill be engrossed, and read the third time on Monday next.

UNIFORM BANKRUPTCY.

The House proceeded to consider the amendments reported, yesterday, from the Committee of the whole House to whom was recommitted the bill to establish an uniform system of bankruptcy throughout the United States: Whereupon,

The first amendment being twice read, was further amended at the Clerk's table, and, on the question put thereupon, agreed to by the House.

A motion being then made and seconded to postpone the further consideration of the said report of the Committee of the whole House, until the first Monday in December next.

The previous question thereon was called for by five members, to wit: "Shall the main question, to agree to the said motion, be now put?"

And, on the previous question, to wit: "Shall the said main question be now put?" it passed in the negative—yeas 41, nays 56, as follows:

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Amendment to the Constitution.

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YEAS—Willis Alston, Theodorus Bailey, Phanuel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, Thomas T. Davis, John Dawson, Joseph Eggleston, Lucas Elmendorf, Albert Gallatin, Samuel Goode, Edwin Gray, Andrew Gregg, John A. Hanna, Thomas Hartley, Joseph Heister, David Holmes, George Jackson, James Jones, Aaron Kitchell, Michael Leib, Matthew Lyon, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, John Randolph, John Smilie, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, Abram Trigg, John Trigg, Philip Van Cortlandt, and Robert Williams.

NAYS—George Baer, Bailey Bartlett, James A. Bayard, John Bird, Jonathan Brace, John Brown, Christopher G. Champlin, William Cooper, William Craik, John Davenport, Franklin Davenport, John Dennis, George Dent, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, William Gordon, Roger Griswold, Robert Goodloe Harper, Archibald Henderson, William H. Hill, Benjamin Huger, James H. Inlay, John Wilkes Kittera, Henry Lee, Silas Lee, Samuel Lyman, James Linn, Edward Livingston, John Marshall, Lewis R. Morris, Abraham Nott, Harrison G. Otis, Robert Page, Josiah Parker, Thomas Pinckney, Leven Powell, John Reed, John Rutledge, junior, Samuel Sewall, James Sheafe, William Shepard, Samuel Smith, Richard Dobbs Spaight, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

The other amendments reported from the Committee of the Whole, being twice read, were, on the question severally put thereupon, agreed to by the House.

The said bill being then further amended at the Clerk's table,

A motion was made and seconded that the further consideration of the said bill be postponed until next Tuesday week: and the question being taken thereupon, it was resolved in the affirmative.

MONDAY, February 3.

An engrossed bill to discharge Robert Sturgeon from his imprisonment was read the third time, and passed.

Mr. SMITH, from the Committee of Commerce and Manufactures, presented a bill for the relief of James Yard; which was read twice, and committed to a Committee of the Whole.

Mr. GRISWOLD, from the Committee of Revisal and Unfinished Business, presented a bill providing the means of intercourse between the United States and foreign nations; which was read twice and ordered to be committed to a Committee of the Whole House on Thursday next.

TUESDAY, February 4.

A memorial of Isaac Zane was presented to the House and read, praying that he may be permitted to retain the possession of a certain tract of land which was granted to him by the Wyandot nation of Indians, and which, by the cession of

lands since made by the said nation, falls within the boundary of the United States.

Ordered, That the said petition be referred to the committee appointed, on the twenty-fourth of December last, to inquire whether any, and, if any, what, alterations are necessary in the laws providing for the sale of the lands of the United States Northwest of the Ohio.

Mr. SMITH, from the Committee of Commerce and Manufactures, presented a bill to continue in force an act concerning certain fisheries of the United States, and for the regulation and government of the fishermen employed therein, and for other purposes, as therein mentioned; which was read twice and committed to a Committee of the Whole House on Monday next.

Mr. HARRISON, from the committee appointed, presented a bill in addition to an act, entitled "An act regulating the grants of land appropriated for military services, and for the Society of United Brethren for propagating the Gospel among the Heathen;" which was read twice and committed to a Committee of the Whole House to-morrow.

Mr. GRISWOLD, from the Committee of Revisal and Unfinished Business, presented a bill respecting the Mint; which was read twice and committed to a Committee of the Whole House to-morrow.

Mr. HARPER, from the Committee of Ways and Means, presented a bill to establish a General Stamp Office; which was read twice and committed to a Committee of the Whole House on Friday next.

AMENDMENT TO THE CONSTITUTION.

On a motion made and seconded that the House do come to the following resolutions, to wit:

Resolved, That the first section of the second article of the Constitution of the United States ought to be amended in such a manner that the Electors of President and Vice President of the United States, in giving their votes, shall designate and distinguish the person voted for as President, and the person voted for as Vice President, and the person having the greatest number of votes for Vice President, if such number be a majority of the whole number of Electors, shall be Vice President; and if there be no choice, and two or more persons shall have the highest number of votes, and those equal, the Senate shall immediately choose, by ballot, one of them for Vice President; and if no person shall have a majority, then the Senate shall, in like manner, choose a Vice President from the five highest on the list: but in choosing the Vice President, the votes shall be taken by States, the Senators from each State having one vote. A quorum, for this purpose, shall consist of a member or members from two-thirds of the States; and a majority of all the States shall be necessary to a choice.

Resolved, That the foregoing amendment be proposed to the Legislatures of the several States, to be ratified as a part of the Constitution of the United States.

Ordered, That the said motion be committed to a Committee of the Whole House on the state of the Union.

On motion, it was

Resolved, That a committee be appointed to report on the expediency of amending so much of the act, en-

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Case of Jonathan Robbins.

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titled "An act to promote the progress of useful arts, and to repeal the act heretofore made for that purpose," as restricts the right of obtaining patents for useful discoveries and inventions, to the citizens of the United States, and for extending the said right to all persons who shall have resided within the said States for a limited time; and to the executors and administrators of the inventors of useful arts and inventions, who may have died before a patent has issued for such invention.

Ordered, That Mr. HARPER, Mr. KITTERA, Mr. BIRD, Mr. GRISWOLD, and Mr. PINCKNEY, be appointed a committee, pursuant to the said resolution.

On motion, it was

Resolved, That a committee be appointed to inquire whether any amendments are necessary to such parts of the laws as relate to arresting the non-commissioned officers and private soldiers of the United States, for debts or contracts.

Ordered, That Mr. GORDON, Mr. BIRD, and Mr. PAGE, be appointed a committee pursuant to the said resolution, with power to report thereon by bill or bills, or otherwise.

The House resolved itself into a Committee of the Whole House on the bill for the relief of James Yard; and, after some time spent therein, the Committee rose and reported two amendments thereto; which were twice read and agreed to by the House.

Ordered, That the said bill, with the amendments, be engrossed and read the third time tomorrow.

CASE OF JONATHAN ROBBINS.

Mr. LIVINGSTON laid the following resolutions on the table:

Resolved, That provision ought to be made, by law, for carrying into effect the twenty-seventh article of the Treaty of Amity, Commerce, and Navigation, between the United States and the King of Great Britain.

Resolved, That the President of the United States be requested to lay before this House copies of the requisition for, and other papers relative to, the apprehension and delivering of Jonathan Robbins, under the twenty-seventh article of the Treaty of Amity, Commerce, and Navigation, between the United States and the King of Great Britain, together with copies of the communications (if any) between either of the Executive Departments and the Judge of the District Court of South Carolina, on the subject.

Mr. LIVINGSTON said, at the time the law was passed respecting the British Treaty, provision was supposed to have been made for carrying it fully into execution. The twenty-seventh article, however, of that Treaty, had been found unjust, impolitic, and cruel. He then read the article, by a recent construction of which, Mr. L. said, a citizen of the United States might be dragged from his country, his connexions, and his friends, and subjected to the judgment of an unrelenting military tribunal.

The second resolution, Mr. L. said, was connected with the first, although addressed to the Chief Magistrate of the Union. It had been said, and repeated in every paper throughout the United States, that a letter had been written by an Executive officer advising a Judge, in his judicial

capacity, of the line of conduct which it was wished by the Executive should be pursued. He did not know this to be the fact, and would be happy to find it was not; nor did he mean now to enter into any discussion on the subject; and concluded with laying the resolutions on the table.

Ordered, That Mr. DANA, Mr. LIVINGSTON, and Mr. BAYARD, be appointed a committee, pursuant to the resolutions, and that the said committee have power to report thereon by bill or bills, or otherwise.

Ordered, That Mr. LIVINGSTON and Mr. CLAIBORNE be appointed a committee to wait on the President of the United States with the last resolution.

WEDNESDAY, February 5.

An engrossed bill for the relief of James Yard was read the third time and passed.

A petition of John Wilkins, Jr., and others, was presented to the House and read, praying that a resurvey of certain lands purchased by the petitioners from the United States, may be granted, in consequence of a deficiency which appears upon actual admeasurement to exist; and that the amount of such deficiency may be deducted from the payment of the last moiety of the purchase-money.

Ordered, That the said petition be referred to the committee appointed on the twenty-fourth of December last, to inquire whether any, and, if any, what, alterations are necessary in the laws authorizing the sale of the lands of the United States Northwest of the Ohio.

Mr. LIVINGSTON, from the committee appointed yesterday, to wait on the President of the United States with a resolution requesting him "to lay before this House copies of the requisition for, and other papers relative to, the apprehension and delivery of Jonathan Robbins, under the twenty-seventh article of the Treaty of Amity, Commerce, and Navigation, between the United States and the King of Great Britain, together with copies of the communications, if any, between either of the Executive Departments and the Judge of the District Court of South Carolina, on the subject," reported that the committee had performed that service, and that the President had signified to them, that he would take the request of the said resolution into consideration, and return an answer in due season.

A message from the Senate, informed the House that the Senate recede from their amendment disagreed to by this House to the bill, entitled "An act to repeal part of an act, entitled 'An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned,'" and doth agree to the amendments proposed by this House to the other amendments of the Senate to the said bill.

The SPEAKER laid before the House a letter and report from the Secretary of the Treasury, accompanying two statements in relation to the internal revenues of the United States, made in pursuance of a resolution of the House of the 6th

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Foreign Intercourse.

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of January, one thousand seven hundred and ninety-seven, and an act of Congress passed on the 11th of July, one thousand seven hundred and ninety-eight; which were read, and ordered to lie on the table.

The House resolved itself into a Committee of the Whole, on the bill declaring the assent of Congress to certain acts of the States of Rhode Island, Maryland, and Georgia; and, after spending some time therein, the committee rose, and had leave to sit again.

The House resolved itself into a Committee of the Whole, on the bill in addition to an act, entitled "An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen;" and, after spending some time therein, the committee rose, and had leave to sit again.

THURSDAY, February 6.

Resolved, That a committee be appointed to prepare and bring in a bill giving further time to the holders of military warrants to register and locate the same.

Ordered, That Mr. HARRISON, Mr. D. FOSTER, and Mr. GALLATIN, be appointed a committee to prepare and bring in a bill pursuant to the said resolution; and that said committee have leave to sit during the sitting of the House.

Mr. HARRISON, from the last-mentioned committee, presented a bill giving further time to the holders of military warrants to register and locate the same; which was twice read, and referred to a Committee of the Whole immediately.

The House accordingly resolved itself into said committee; and, after spending some time therein, Mr. SPEAKER resumed the Chair, and Mr. PARKER reported that the committee had had the said bill under consideration, and made two amendments thereto; which were twice read, amended, and agreed to by the House.

The said bill was then further amended, and, together with the amendments, ordered to be engrossed, and read the time to-morrow.

The House again resolved itself into a Committee of the Whole, on the bill declaring the assent of Congress to certain acts of the States of Maryland, Rhode Island, and Georgia; and, after spending some time therein, the SPEAKER resumed the Chair, and Mr. PARKER reported that the Committee had again had the said bill under consideration, and made several amendments thereto; which were severally twice read and agreed to by the House.

The said bill was then further amended, and, together with the amendments, ordered to be engrossed, and read the third time to-morrow.

The House resolved itself into a Committee of the Whole, on the bill respecting the Mint; and, after spending some time therein, the SPEAKER resumed the Chair, and Mr. PARKER reported that the Committee had had the said bill under consideration, and made no amendments thereto.

Ordered, That the said bill be engrossed, and read the third time to-morrow.

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The House again resolved itself into a Committee of the Whole, on the bill in addition to an act, entitled "An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen;" and, after spending some time therein, the SPEAKER resumed the Chair, and Mr. PARKER reported that the Committee had again had the said bill under consideration, and made several amendments thereto; which were severally twice read, and agreed to by the House.

The said bill was then further amended, and, together with the amendments, ordered to be engrossed, and read a third time to-morrow.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act providing for the enumeration of the inhabitants of the United States," with several amendments; to which they desire the concurrence of this House.

FRIDAY, February 7.

An engrossed bill in addition to an act, entitled "An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen," was read the third time, and passed.

An engrossed bill respecting the Mint was read the third time, and passed.

An engrossed bill declaring the assent of Congress to certain acts of the States of Rhode Island, Maryland, and Georgia, was read the third time, and passed.

An engrossed bill giving further time to the holders of military warrants to register and locate the same was read the third time, and passed.

The amendments proposed by the Senate to the bill, entitled "An act providing for the enumeration of the inhabitants of the United States," were read, and ordered to be referred to the Committee of Ways and Means.

A motion was made and seconded that the House do come to the following resolution, to wit:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of authorizing the collectors of the direct tax in North Carolina, to receive, in payment thereof, the paper money of that State; and report by bill or otherwise:

And, the question being taken thereupon, it passed in the negative.

FOREIGN INTERCOURSE.

The House resolved itself into a Committee of the Whole on the bill providing the means of intercourse between the United States and foreign nations; and, after some time spent therein, Mr. SPEAKER resumed the Chair, and Mr. PARKER reported that the Committee had had the said bill under consideration, and made some progress therein.

On motion, it was

Ordered, That the Committee of the Whole be discharged from the further consideration of the said bill, and that the same be recommitted to the Committee of Revision and Unfinished Business.

H. OF R.

Case of Jonathan Robbins.

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NORTHWESTERN LANDS.

A petition of sundry inhabitants of the Northwestern Territory, residing on lands purchased from John Cleves Symmes, was presented to the House and read, praying that the said Symmes may be allowed to complete his contract with the United States, or that such other relief may be granted to the petitioners as to the wisdom of Congress shall seem meet.

Ordered, That the said petition be referred to the committee appointed, on the twenty-fourth of December last, to inquire whether any, and, if any, what, alterations are necessary to be made in the laws authorizing the sale of the lands of the United States, Northwest of the Ohio.

CASE OF JONATHAN ROBBINS.

The following Message and documents were received from the PRESIDENT OF THE UNITED STATES; which were read, and ordered to lie on the table:

Gentlemen of the House of Representatives:

In consequence of your request to me, conveyed in your resolution of the fourth of this month, I directed the Secretary of State to lay before me copies of the papers intended. These copies, together with his report, I now transmit to the House of Representatives, for the consideration of the members.

JOHN ADAMS.

UNITED STATES, Feb. 7, 1800.

DEPARTMENT OF STATE,
February 6, 1800.

The Secretary of State has prepared, as directed, and now respectfully submits to the President of the United States, copies of the papers which probably were contemplated by the House of Representatives, in their resolve of the 4th instant; although no requisition, as the resolve supposes, has ever been received, nor any communication made to the Judge of the District Court of South Carolina, concerning any man by the name of Jonathan Robbins. But by the proceedings before that Judge, as they have been published, it appears that a seaman named Thomas Nash, the subject of the British Minister's requisition, did assume the name of Jonathan Robbins, and make oath "that he was a native of the State of Connecticut, and born in Danbury, in that State." The Secretary therefore, besides the copy of the requisition, and the copies of his letter to the Judge of the District Court of South Carolina, and of the Judge's answer, has prepared, and herewith encloses, copies of the certificates of the selectmen and town clerk of Danbury, and extracts of letters from Admiral Sir Hyde Parker, satisfactorily proving that the Thomas Nash, calling himself Jonathan Robbins, who, on the requisition of the British Minister, was delivered by the Judge aforesaid, with the assent of the President of the United States, was not an American citizen, but a native Irishman, who to his other crimes added *perjury*, in the hope, thereby, to escape the punishment due to *piracy and murder*. The original certificates of the selectmen and town clerk of Danbury are in the Secretary's possession; and he has compared the extract of Admiral Parker's letter to Mr. Liston with the original, and the extract of the Admiral's letter to the British Consul at Charleston, with the passage as recited in the Consul's original letter to Mr. Liston.

All which is respectfully submitted.

TIMOTHY PICKERING.

Copy of a note from Robert Liston, Esq., Envoy Extraordinary and Minister Plenipotentiary of His Britannic Majesty, to Timothy Pickering, Secretary of State of the United States.

PHILADELPHIA, May 23, 1799.

R. Liston presents his respects to Col. Pickering, Secretary of State. A seaman of the name of Thomas Nash having been committed to jail in Charleston, South Carolina, at the instance of His Majesty's Consul there, on suspicion of his having been an accomplice in the piracy and murder committed on board His Majesty's ship *Hermione*, and information of the circumstance having been transmitted to Vice Admiral Sir Hyde Parker, a cutter was despatched to Charleston, with an officer on board to whom the man was well known, in order that his person might be indentified, and that he should be carried to the West Indies for trial. But on the application of the Consul for the restoration of Nash, in conformity to the treaty of 1794, Judge Bee and the Federal Attorney were of opinion that he could not with propriety be delivered up, without a previous requisition on my part made to the Executive Government of the United States. May I therefore request, sir, that you will be pleased to lay this matter before the President, and procure his orders that the said Thomas Nash be delivered up to justice.

Letter from the Secretary of State, to Judge Bee.

DEPARTMENT OF STATE,
Philadelphia, June 3, 1799.

SIR: Mr. Liston, the Minister of His Britannic Majesty has requested, that Thomas Nash, who was a seaman on board the British frigate *Hermione*, and who he is informed is now a prisoner in the jail of Charleston, should be delivered up. I have stated the matter to the President of the United States. He considers an offence committed on board a public ship of war, on the high seas, to have been committed within the jurisdiction of the nation to whom the ship belongs. Nash is charged, it is understood, with *piracy and murder*, committed by him on board the above mentioned British frigate, on the high seas, and consequently within the jurisdiction of His Britannic Majesty; and therefore, by the 27th article of the Treaty of Amity with Great Britain, Nash ought to be delivered up, as requested by the British Minister, provided such evidence of his criminality be produced as, by the laws of the United States or of South Carolina, would justify his apprehension and commitment for trial, if the offence had been committed within the jurisdiction of the United States. The President has in consequence thereof authorized me to communicate to you "his advice and request" that Thomas Nash, may be delivered up to the Consul or other agent of Great Britain, who shall appear to receive him. I have the honor be, &c.

TIMOTHY PICKERING.

HON. THOMAS BEE,
Judge of the District of South Carolina.

Letter from Thomas Bee, Esq., to the Secretary of State, dated Charleston, South Carolina, July 1st, 1799.

In compliance with the request of the President of the United States as stated in your favor of the 3d ult., I gave notice to the British Consul that at the sitting of the district court on this day I should order Thomas Nash, the prisoner charged with having committed murder and piracy on board the British frigate *Hermione*

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on such strong evidence of his criminality as justified his apprehension and commitment for trial, to be brought before me on habeas corpus, in order to his being delivered over agreeably to the 27th article of the Treaty of Amity with Great Britain. The Consul attended in court and requested that the prisoner should remain in jail until he had a convenient opportunity of sending him away. I have therefore directed that he remain in prison, until the Consul shall find it convenient to remove him. I have the honor to be with great respect your most obedient servant,

THOMAS BEE.

*District Judge of South Carolina.*Hon. T. PICKERING, *Secretary of State.*

DANBURY, Sept. 16, 1799.

We, the subscribers, selectmen of the town of Danbury, in the State of Connecticut, certify that we have always been the inhabitants of said town, and are from forty-five to fifty-seven years of age, and have never known an inhabitant of this town by the name of Jonathan or Nathan Robbins, and that there has not been nor now is any family known by the name of Robbins within the limits of said town.

Certified, per

ELI MYGOT.
EBEN BENEDICT.
JUSTUS BARNUM.
BEN. HICHCOCK.

DANBURY, Sept. 10, 1799.

The subscriber, late town clerk for the town of Danbury, in the State of Connecticut, certifies that he kept the town records twenty-five years, viz: from the year 1771 until the year 1796; that he is now fifty-six years of age, and that he never knew any person by the name of Robbins, born or residing in the said town of Danbury, during that term of twenty-five years, before or since.

MAJOR TAYLOR.

Extract of a letter from Admiral Sir Hyde Parker, to Robert Liston, Esq., Envoy Extraordinary and Minister Plenipotentiary of His Britannic Majesty to the United States, dated

PORT ROYAL HARBOR,
Jamaica, Sept. 9, 1799.

"I have had the honor of receiving duplicates of your Excellency's letters, numbered 10, 11, and 12, and, in answer thereto, acquaint you that in consequence of Nash, one of the ringleaders in the mutiny, murders, &c., on board the Hermione, being delivered up by the United States to me, he has been tried at a court martial, and sentenced to suffer death, and afterwards hung in chains, which sentence has been put into execution. He acknowledged himself to be an Irishman."

Extract of a letter from Benjamin Moodie, Esq., Consul of His Britannic Majesty at Charleston, South Carolina, to Robert Liston, Esq., Envoy of his said Majesty to the United States, dated

NOVEMBER, 19, 1799.

In consequence of many obstacles I had to encounter in obtaining the delivery of Thomas Nash, late of His Majesty's ship Hermione, and of the numerous publications to the northward and in this place, I wrote to Admiral Sir Hyde Parker, requesting he would be good enough to send me minutes of the court martial, to

which he answered under date 13th September: "I am to acquaint you that Nash has been executed agreeably to a court martial, and that he confessed himself to be an Irishman; and it further appears, by the Hermione's books, that he was born at Waterford; on the 21st December, 1792, entered a volunteer on board the Dover, received £3 bounty money, and was removed to the Hermione, 28th of January, 1793. And with respect to transmitting the minutes of his trial, that is not in my power, but rests with the Lords of the Admiralty only."

MONDAY, February 10.

Mr. ABIEL FOSTER laid the following resolution on the table:

Resolved, That a committee be appointed to inquire whether any, and, if any, what, alteration is necessary to be made in the compensation of the officers of this House and of the Senate.

The SPEAKER laid before the House two reports from the Secretary of the Treasury, one containing a statement of the goods, wares, and merchandise, imported into the United States, and the other a statement of the duties and drawbacks on merchandise.

Mr. CLAIBORNE called up a resolution he laid on the table on Friday, and substituted the following in its place:

Resolved, That a committee be appointed to inquire into the operation of the acts making provision for the establishment of trading houses with the Indian tribes; and also into the expediency of reviving and continuing in force the said acts.

MESSRS. CLAIBORNE, NICHOLAS, HENDERSON, THATCHER, and ELIZUR GOODRICH, were appointed.

The petition of Amy Dardin was called up, and after some opposition, on account of a former reference and decision, was referred to the Committee of Claims.

The motion for an adjournment of both Houses on the first Monday in April next was taken up. Mr. KITTERA moved to insert the first day instead of the first Monday in April. Mr. MACON moved to change it to the third Monday in March. Both these motions were negatived, and the original one carried—ayes 55.

CREDIT ON DUTY BONDS.

Mr. SMITH, Chairman of the Committee of Commerce and Manufactures reported a resolution, which he said the present deranged state of commerce rendered necessary and very important to the commercial interests; he therefore hoped it would be passed without delay.

On motion the House resolved itself into a Committee thereupon, and it was agreed to, as follows:

Resolved, That the term of payment allowed by law on bonds which have been given, and which shall become due prior to the first day of August next, for duties on impost, may be extended for sixty days, in all cases, respectively, where it shall be required by the parties, and where the recovery of such imposts shall not be endangered thereby. *Provided*, That in every case of such additional credit, there shall be required and paid on such bonds, respectively, interest at the

rate of one half per cent per month from the time such duties shall be respectively due and payable according to law.

It was referred to the Committee of Commerce and Manufactures, to report a bill accordingly.

CAVEATS AGAINST LAND PATENTS.

Mr. DAVIS laid on the table the following resolution:

Resolved, That a committee be appointed to inquire into the expediency or in expediency of passing a law to regulate the manner of entering caveats to prevent the issuing of patents for land granted for military services; and that the same committee be directed to inquire into the expediency or in expediency of passing a law to prevent the entering a caveat in any case to hinder the issuing a patent for land granted for military services.

TUESDAY, February 11.

Mr. SMITH, from the Committee of Commerce and Manufactures, pursuant to the order of the House of yesterday, reported a bill extending the time for the payment of bonds given for duties of impost, in certain cases; which was read a first and second time, and committed for to-morrow.

Mr. GORDON, from the select committee to whom were referred the consideration of that part of the law relative to the Military Establishment which provides that non-commissioned officers or privates shall not be arrested for debt, reported a bill "in addition to the laws relative to the Military Establishment of the United States;" which was read a first and second time, and committed for to-morrow.

Mr. SMITH, from the Committee of Commerce and Manufactures, to whom were referred the consideration of the amendments of the Senate to the bill providing for salvage in case of recapture, made a report; which was read, and committed to a Committee of the whole House on Thursday.

A petition of Samuel Lewis, senior, late a Clerk in the War Office, stated that, upon a settlement of his account with the United States, a balance has been found due from him to the United States, for which he is now imprisoned; that he is unable to discharge the same; and praying that he may be liberated from his confinement.

Mr. SMITH, from the Committee of Commerce and Manufactures, presented, a bill further to suspend the commercial intercourse between the United States and France, and the dependencies thereof; which was read twice and committed to a Committee of the Whole House to-morrow.

Ordered, That the committee appointed to inquire whether any, and, if any, what, alterations are necessary in the laws establishing a post office and post roads within the United States, have leave to report by bill or bills, or otherwise.

UNIFORM BANKRUPTCY.

The order of the day to take into consideration the report of the Committee of the whole House on the Bankrupt bill, having been called for by Mr. BAYARD—after proposing and agreeing to several amendments,

Mr. JONES, agreeably to the notice which he had given, moved the following additional section:

"*And be it further enacted*, That nothing in this act contained, shall extend to, or in any wise affect or operate upon debts contracted, or transactions which may have taken place, prior to the passing thereof."

This motion was opposed by Messrs. BAYARD and MARSHALL, and finally negatived, only 24 members voting in the affirmative.

Mr. MACON moved to strike out the 24th section, which gives the commissioners power to examine the wife of a bankrupt upon oath—which created considerable debate. Upon the question there were yeas 38, nays 49.

The bill was then ordered to be engrossed for a third reading on Monday next—55 members voting in favor of it.

DRAWBACK OF DUTY.

Mr. SMITH, from the Committee of Commerce and Manufactures, to whom were referred the memorial of a number of merchants of the city of Philadelphia, relative to the 75th section of the act to regulate the collection of duties on imports and tonnage, reported a bill to allow a drawback of duties on goods exported to New Orleans, and therein to amend the act entitled "An act to regulate the collection of duties on imports and tonnage;" which was read a first and second time, and committed to a Committee of the whole House.

WEDNESDAY, February 12.

On motion of Mr. SMITH, the House went into a Committee of the Whole on the bill extending the time of payment of bonds given for duties of imposts, in certain cases, when

Mr. SHEAFE having suggested, that the giving this indulgence might inconvenience the Treasury, by being called upon by the collectors for money to discharge debentures on goods given for drawback, without a positive provision be made that such debentures should not be paid until the duties were discharged, after some observations from Messrs. SMITH, NICHOLAS, OTIS, and SEWALL, the Committee rose and the bill was recommitted to the Committee of Commerce and Manufactures.

The House went into Committee of the Whole on the bill further to suspend the commercial intercourse between the United States and France and the dependencies thereof; and after some time spent therein, the Committee rose, reported progress, and obtained leave to sit again.

Mr. DAVIS called up for consideration the resolution which he laid on the table on Monday last, instituting an inquiry into the expediency of preventing caveats being filed against the issuing of patents for land granted by the State of Virginia, for military services; and the resolution having been again read, was agreed to, and a committee of three members appointed for the purpose.

Mr. OTIS, from the committee to whom was referred, on the ninth of December last, so much of the President's Speech as relates to "a system of national defence, commensurate with our resources and the situation of our country," laid be-

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fore the House a letter from the Secretary of War to the chairman of the said committee, relative to the establishment of military schools; which was read, and ordered to lie on the table.

ARRESTING SOLDIERS FOR DEBT.

The House went into a Committee of the Whole on the bill in addition to the laws relative to the Military Establishment of the United States, Mr. RUTLEDGE in the Chair; when the bill was read, as follows.

Be it enacted &c., That if any person who shall have enlisted, or hereafter may enlist, as a non-commissioned officer or private soldier, in the service of the United States, shall, prior to his enlistment, have been taken in execution, or arrested for debt, or contract, and committed to prison, and at the time of his enlistment as aforesaid, be holden in prison by virtue of said execution or arrest, such person shall not be discharged from his imprisonment in consequence of his enlisting as aforesaid; and in case any such person, arrested as aforesaid, and prior to his enlistment, shall have given bail, and at the time of his enlistment his bail shall not be discharged in due course of law, it shall and may be lawful for the bail to take such measures for his or their discharge, as he or they might have taken if the principal had not been enlisted in the service of the United States; and in case the principal shall be surrendered up by the bail, he shall be holden in like manner, as if he had not been enlisted as aforesaid; any law or laws to the contrary notwithstanding."

Mr. OTIS moved to amend the bill so as to confine its operation to persons who may hereafter enlist, by striking out the words in *italic* in the second line of it.

Mr. O. said he conceived the Government had no right to break their contract with the soldiers, a great part of whom had probably enlisted for the benefit of the provision now about to be rescinded.

After some debate, and Mr. NICHOLAS having said he wished to make a motion which would more fully try this principle, Mr. OTIS withdrew his motion, and the Committee rose and reported the bill without amendment—when

Mr. NICHOLAS moved that the bill be recommitted to a select committee, with instruction to amend the laws relative to the Military Establishment, so as to take away the exemption thereby given to non-commissioned officers, musicians, and privates, from arrest for any debt or contract, existing or entered into before their enlistment, above the sum of twenty dollars.

MESSRS. MARSHALL, OTIS, RUTLEDGE, SMITH, SHEPARD, and CHAMPLIN, opposed the motion; and MESSRS. VARNUM, MACON, NICHOLAS, JONES, and GALLATIN, spoke in favor of it. The question was then taken, and decided in the negative—yeas 43, nays 51 as follows:

YEAS—Willis Alston, Theodorus Bailey, Phanuel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, Thomas T. Davis, John Dawson, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Gallatin, Samuel Goode, Andrew Gregg, John A. Hanna, Joseph Heister, Archibald Henderson, David Holmes, George Jackson, James Jones, Aaron Kitchell, Michael Leib, Matthew Lyon, Edward Livingston, Nathaniel

Macon, Peter Muhlenberg, Anthony New, John Nicholas, Abraham Nott, John Randolph, John Smilie, Richard Dobbs Spaight, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, Abram Trigg, John Trigg, Joseph B. Varnum, and Robert Williams.

NAYS—George Baer, Bailey Bartlett, James A. Bayard, John Bird, Jonathan Brace, John Brown, Christopher G. Champlin, William Cooper, William Craik, John Davenport, Franklin Davenport, George Dent, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, William Gordon, Edwin Gray, Roger Griswold, William Barry Grove, William H. Hill, James H. Imlay, John Wilkes Kittera, Henry Lee, Silas Lee, Samuel Lyman, John Marshall, Lewis R. Morris, Harrison G. Otis, Robert Page, Thomas Pinckney, Leven Powell, John Reed, John Rutledge, junior, Samuel Sewall, James Sheafe, William Shepard, Samuel Smith, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

And then the question being taken that the said bill be engrossed, and read the third time, it passed in the negative—yeas 33, nays 53; and so the bill was rejected.

THURSDAY, February 13.

MILITARY INTERFERENCE IN ELECTIONS.

Mr. LEIB called up for consideration the following resolution, which he laid on the table on the 4th instant, viz:

Resolved, That a committee be appointed to bring in a bill making provision for the removal of the regular troops of the United States which may be stationed where an election is held, and that such removal shall take place at least two days previous to such election, and to a distance not less than two miles.

Mr. OTIS moved to amend the resolution by striking out the words in *italic*, in the second line, and inserting "inquire into the expediency of."

A long debate ensued on this motion, in which it was conceded, on all sides, that the resolution was too definite, and left nothing in the power of the committee to act on, except merely bringing in a bill conformable to it. If excesses had been committed by the military at elections, and they were guilty of improper interference, it seemed to be the wish of every member that some provision should be made to guard against them in future; but they were unwilling to say what that provision should be until an inquiry were made into the facts stated. The removal of the troops to the distance mentioned, was also particularly objected to, as it might leave fortifications, arsenals, and military stores, for two or three days, entirely unprotected.

Mr. LEIB at length withdrew his original proposition, and submitted the following, which was adopted without objection, viz:

"Resolved, That a committee be appointed to prepare and report a bill, containing such legislative provisions as may be judged expedient, either for removing any military force of the United States, from any place of holding elections, or for preventing their interference in such elections."

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Intercourse with France, &c.

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Mr. MASHALL, Mr. LEIB and Mr. OTIS, were appointed the committee.

UNIFORM MILITIA.

Mr. H. LEE, from the select committee appointed for that purpose, reported a bill more effectually to provide for the national defence, by establishing an uniform militia throughout the United States; which was read a first and second time, and committed to a Committee of the whole House on Monday.

CREDIT ON DUTY BONDS.

Mr. SMITH, from the Committee of Commerce and Manufactures, to whom was recommended "a bill to extend the time of payment of bonds given for duties of impost, in certain cases," reported the same, with amendments.

The bill was read a first and second time, and committed for to-morrow.

AMENDMENT TO THE CONSTITUTION.

Mr. LIVINGSTON laid the following joint resolution on the table:

Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, That the following article be proposed to the Legislatures of the several States, as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid as a part of the said Constitution, viz:

No Judge of any Court of the United States shall, during his continuance in office, or within six months after he may have resigned the same, be appointed to any other than a judiciary office, under the United States.

STRANGERS ON THE FLOOR.

Mr. DANA said, he wished some other regulation to be made, relative to the exclusion of strangers from the floor of the House, within the bar, and to this effect proposed an order that the Doorkeeper be authorized to admit strangers, on their presenting a card signed by one of the members, which card should mention the name of the bearer, and bear date on the day of admission; no member to have liberty to give more than one card in one day.

Mr. MACON did not approve of this regulation, nor was he a friend to the one lately adopted. He thought very little inconvenience was experienced before the recent regulation took place, and wished it to be rescinded.

The motion was ordered to lie on the table.

FRIDAY, February 14.

Mr. HANNA presented a petition of a number of the inhabitants of the Northwest Territory, praying a confirmation of their titles to certain lands purchased from John Cleves Symmes. Referred to the committee appointed on the subject of public lands.

Mr. A. FOSTER called up for consideration the resolution which he laid on the table, for appointing a committee to inquire whether any alterations ought to be made in the compensation allowed to the officers of the two Houses of Con-

gress; which was agreed to, and three members appointed.

Mr. SMITH, from the Committee of Commerce and Manufactures, who were directed to inquire into the operation of the existing law suspending the intercourse with France, made a report, which was committed to the Committee of the Whole House on the bill further to suspend the commercial intercourse with France.

[The committee state it to be their opinion, that the law had been faithfully executed by the officers of Government, but that the principles of it had been evaded by individuals acting from interested motives, and contains a variety of information in a letter from the Secretary of the Treasury to the chairman of the committee, propounding several questions relative to the existing law, and suggesting strong measures to prevent frauds in future.]

A Message was received from the President of the United States, transmitting a copy of the laws enacted for the government of the Territory of the United States Northwest of the river Ohio.

The Message and the papers accompanying it were referred to the select committee to whom were referred the petition and remonstrances of sundry inhabitants of the Mississippi Territory.

INTERCOURSE WITH FRANCE.

The House went into Committee of the Whole on the bill further to suspend the commercial intercourse between the United States and France, and the dependencies thereof.

Mr. NICHOLAS moved to amend the following part of the first section, to wit: "and if any ship or vessel owned, hired, or employed by any *person* or *persons resident within* the United States, shall directly or indirectly proceed to a French port," &c., by striking out the words in italic, and inserting "*citizen or citizens of*," thereby giving neutrals resident within the United States, or elsewhere, the liberty of trading from the ports of the United States to those of France in neutral bottoms.

Mr. SEWALL conceived the amendment would render the bill intolerable to the citizens of the United States, who would view with a jealous eye foreigners among them enjoying the benefits of a trade they were precluded from, and employing our own vessels and sailors for that purpose.

Mr. SMITH said, the original law, now in existence, was intended to embrace two objects: first, the cutting off all provisions and supplies from the West India islands; second, and the main object, preventing our property from entering the ports of France and being seized and confiscated, an open rupture being at that time considered as unavoidable. And both these measures were also intended to coerce the French Government to an accommodation. But these objects had failed, and their policy, instead of benefiting, had injured, this country. He was, therefore, in favor of the amendment.

What, said Mr. S., will be the operation of this amendment? Gentlemen were mistaken when they supposed our own vessels or our own sailors

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would be employed to carry on this trade. Neutral vessels could be employed. If a single American sailor were found on the list of the *role d'équipage*, the whole property would be liable to condemnation, if taken by a French cruiser. And they were also mistaken if they supposed any protection would be required from the American Government. What would be its operation on our commerce? Are we not now restricted from carrying our property, and shall we not be restricted by the bill upon the table? And how, then, shall we suffer by adopting the amendment? It had been said we might carry on an intermediate trade. It was true this had and might still be done, but the inconveniences and the risks were incalculable.

And what, exclaimed Mr. S., would be its operation on our agricultural interests? An immediate advantageous sale for our produce would be offered, which now lies rotting in our warehouses. Double risks and double insurances would be saved by purchasers coming into our market and giving a fair price for our commodities.

If we were in actual war, said Mr. S., would it not be good policy to permit neutrals to purchase our produce, and thereby enable us to carry on that war; to support that navy which was raised for our protection; to enable the citizens to pay the additional burdens which our exigencies require; and, finally, prevent the sinking of our revenue, as was the case the last year? It was this policy which enabled Great Britain to meet her extraordinary demands; it was this policy which we ought to pursue, and which he hoped the citizens of the United States would not be deprived the benefit of.

A long debate ensued on Mr. NICHOLAS'S amendment, and the Committee rose, and obtained leave to sit again, without taking the question upon it.

Mr. KITTERA said, he perceived a disposition to travel over the whole of the arguments which had been formerly used relative to the expediency of suspending the intercourse with France; and as some delay must ensue thereby, and as it was important for the citizens of the United States to know whether the prohibition would be continued, he would move the following resolution, to wit:

Resolved, That a committee be appointed to report a bill to continue in force for one month the act, entitled "An act to suspend the commercial intercourse between the United States and France, and the dependencies thereof."

Ordered to lie on the table.

MONDAY, February 17.

The SPEAKER read a letter from the Commissioners appointed to settle and adjust the claims of Canada and Nova Scotia Refugees, enclosing a statement of their proceedings under the act authorizing their appointment.

The House went into a Committee of the Whole on the bill to extend the time of payment of bonds given for duties of impost, in certain

cases, and reported their agreement to the same. It was ordered to be read a third time to-morrow.

Mr. DANA called up for consideration the order which he proposed to be made relative to the admission of strangers by a card given by a member, and, after some debate, it was negatived—yeas 30, nays 41.

Mr. D. FOSTER, from the Committee of Claims, made a report on the petition of the Corporation of Rhode Island College, recommending an agreement, on the part of the House, to a resolution heretofore reported on that subject, the purport of which is, that the accounting officers of the Treasury should liquidate and settle the claims for compensation for the use and occupation of the College edifice, and for injuries done to the same, by the troops of the United States.

The report was read a first and second time, committed to a Committee of the whole House, and made the order of the day for Wednesday next.

CASE OF JONATHAN ROBBINS.

Mr. RUTLEDGE said, he had expected that some order would have been taken on the Message of the President, before this time, by the gentleman who called for it; but as he had been disappointed, he would now give notice to the honorable member from New York that he would call for some order upon the Message to-morrow.

Mr. LIVINGSTON said, the gentleman had momentarily anticipated him; he meant to have moved for a reference to a Committee of the whole House this morning, with an intention to introduce certain resolutions, and he would now make that motion.

The question on commitment was put and carried—yeas 50, nays 43; and was made the order of the day for Friday.

Mr. BAYARD then laid the following resolution on the table, which was read and referred to the above Committee, viz:

Resolved, That the conduct of the Executive Government of the United States, in relation to the requisition made by His Britannic Majesty's Minister, of the delivery up to justice of Thomas Nash, otherwise called Jonathan Robbins, upon the charge of murder, committed on board of the Hermione British frigate, which said Nash had sought an asylum within the United States, was conformable to the duty of the Government, and to the obligations of good faith stipulated in the 27th article of the Treaty of Amity, Commerce, and Navigation, made with Great Britain.

INTERCOURSE WITH FRANCE.

The House again went into Committee of the Whole on the bill further to suspend the commercial intercourse between the United States and France; and,

Mr. NICHOLAS'S amendment being under consideration, Messrs. OTIS, RUTLEDGE, and H. LEE, spoke against it; and Messrs. NICHOLAS, MACON, and RANDOLPH, in favor of it.

Mr. KITTERA then moved that the Committee rise, for the purpose of taking into consideration the resolution which he laid on the table on Friday, proposing to continue in force the existing

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law, which will expire on the second day of March next, till the second day of April next.

This motion was negatived—yeas 37, nays 44—on the ground that the bill under consideration would be likely to pass as soon as the one which the gentleman contemplated.

Messrs. MARSHALL and WALN then spoke against it, and Messrs. SMITH, RANDOLPH, NICHOLAS, JONES, and CLAY, in favor of it; when the question on the amendment was taken and negatived—yeas 42, nays 51.

The Committee then rose, and obtained leave to sit again.

TUESDAY, February 18.

An engrossed bill, entitled "An act to extend the time of payment of bonds given for duties of impost, in certain cases," was read the third time and passed.

Mr. SMITH reported a bill from the Committee of Commerce for the relief of Thomas Arnold; which was twice read and committed to the whole House.

Mr. MARSHALL, chairman of the committee appointed for that purpose, reported a "bill for removing any military force of the United States from the places of holding elections;" which was twice read and committed to the whole House.

Mr. HARRISON, chairman of the committee appointed on the 24th December last to inquire whether any, and, if any, what, alterations may be necessary in the laws relating to the sale of lands in the Territory Northwest of the Ohio, made a report, in part, of several resolutions; which were referred to the Committee of the whole House.

CONNECTICUT WESTERN RESERVE.

Mr. BRACE, on account of a bill which passed the Senate last session, and which was sent down to the House just before the rising of Congress, and therefore was not taken up, laid upon the table the following resolution:

Resolved, That a committee be appointed to take into consideration the expediency of accepting from the State of Connecticut a cession of jurisdiction, in the State of Pennsylvania, commonly called the Western Reserve of Connecticut, with instructions to report by bill or otherwise.

Mr. C. CLAIBORNE made a report in part, from the committee appointed on the 18th ultimo to take into consideration the petitions of Cato West and others, inhabitants of the Mississippi Territory. The committee reported some resolutions, one of which was that the same regulations and privileges be extended to the inhabitants of that Territory as were to the Territory Northwest of the Ohio, under an ordinance for their government, &c., proportionate to their numbers, which at present are not accurately ascertained.

This report was referred to a Committee of the whole House.

INTERCOURSE WITH FRANCE.

The House then went into Committee of the Whole on the French Intercourse Bill.

Mr. WALN moved an amendment to the bill, so that persons resident in Europe only, who owned, hired, or employed foreign vessels, should obtain a clearance to any port of the French Republic or its dependencies. His wish was to prevent its being done by persons resident in the West Indies or elsewhere, except in Europe.

This motion caused some debate. Mr. HARPER at length superseded that motion by one to strike out part of the section, so as to prevent the intercourse being carried on by neutrals, in any manner whatever. This, he said, was truly consistent with the spirit of the act, which was to suspend the intercourse altogether.

Some debate ensued on this motion, which was at length negatived—48 to 41.

Mr. RANDOLPH moved to strike out of the third section the words "in bills of exchange, or in money, or bullion," so that vessels which should be driven into a French port by distress of weather, or other casualty, might receive compensation for their cargo, produce, or merchandise.

Mr. CHAMPLIN opposed this motion. He said difficulties had occurred for want of this provision in the old law; it was now introduced to prevent any encouragement offering itself to the merchant who would wish to evade the law under the pretence of distress of weather; for if he could not take a cargo in return, it would not turn to his advantage to enter a French port under this pretence.

The motion was negatived.

Mr. RANDOLPH moved to strike out the whole of the sixth section, but afterwards so modified the section as that the President should not have power to take off the restriction of the act partially, or, in regard to ports with which he might deem it expedient to open the communication. He had no objection for the power to exist in the President to renew the intercourse when events should warrant it, but he wished it to be wholly done, or not at all.

This was also negatived.

Mr. GALLATIN wished to know the meaning of the beginning of the seventh section which is in these words:

"That the whole island of Hispaniola shall, for the purpose of this act, be considered as a dependency of the French Republic."

He understood a part of it, which, by the treaty with Spain, was ceded to France, had not been evacuated by Spain. The Government and laws, as well as the people of that nation, were still there, and he supposed it was not the design of the House to cut off the communication with Spain.

After some explanation by Mr. SMITH, Mr. NICHOLAS moved to strike out the section.

This motion caused some debate, and at length was carried—yeas 43 nays 40.

Mr. KITTERA moved to strike out the limitation section, but was not seconded.

The Committee then rose and reported the amendments.

It being a late hour, the House adjourned without taking up the amendments.

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WEDNESDAY, February 19.

Mr. D. FOSTER from the Committee of Claims, made a report on the petition of Moses Gill, Esq., praying for the payment of 8,400 dollars of Loan-office certificates, and interest thereon, issued by the State of Georgia, which had been rejected at the Treasury, as not constituting a claim against the United States.

A report from the Secretary of the Treasury was submitted to the Committee of the House, with which it was their opinion that it would be proper for the House to concur, and that it would not be expedient for the United States to assume the payment of the said certificates.

The report was committed to a Committee of the whole House.

Mr. HARRISON, chairman of the committee appointed to consider whether any, and, if any, what, alterations may be necessary in the laws relative to the Northwestern Territory, made a report, proposing the following resolution to the House.

“Resolved, That all the salt springs and marshes in the Territory of the United States Northwest of the river Ohio ought to be leased out for the term of not less than — years, nor more than — years.”

The report was referred to a Committee of the whole House, and made the order for Thursday.

INTERCOURSE WITH FRANCE.

The House then took up the report of the Committee of the Whole on the bill “further to suspend the commercial intercourse between the United States and France, and the dependencies thereof.”

That part of the report going to strike out the seventh section, which considered the whole of the Colony of Hispaniola a dependency of the French Republic, was disagreed to, 48 to 42, so that the section remains.

The tenth section provides that if the President should deem it proper to open the intercourse with any part of France, or its dependencies, so that the residence of a Consul at such place may be necessary, then such Consul or Agent shall be allowed an annual salary not exceeding — dollars, and shall be prohibited from engaging in any kind of traffic.

In Committee the blank was filled with \$3,000.

Mr. GALLATIN wished to know why a salary should be granted in the present instance, when none was allowed to other residents in a like situation.?

Mr. SMITH answered, that the present was very different from other consulships; there it required only a common merchant to manage the business relating to shipping, sailors, &c., but in this, ministerial powers, for negotiation, was contemplated. A person qualified for that purpose must be employed; it could not be expected that any man would go to reside in a climate which endangered his life, without a compensation somewhat adequate to the profits he could make by engaging in commerce, which other consuls were permitted to do. In the present case, as had been experienced, this privilege would much injure the general commercial interest of the United States, because

such resident would have the earliest opportunity to take advantage of the intercourse being opened.

Mr. RUTLEDGE also made some explanatory observations, and the motion adopted in Committee for filling the blank with \$3,000 was agreed to.

Mr. HARPER renewed a motion which he made yesterday, but which was negative, to prevent any neutrals carrying on trade from the United States to France, &c., at all. He contended this was the spirit of the former bill, and the idea of the friends of it at its passage, although it might have proved inefficient to its object. He called for the yeas and nays on it; which, after a long debate, were taken and decided in the negative—yeas 39, nays 56, as follows:

YEAS—Bailey Bartlett, Jonathan Brace, John Brown, Christopher G. Champlin, William Cooper, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Edwin Gray, Roger Griswold, Robert Goodloe Harper, Archibald Henderson, James H. Imlay, John Wilkes Kittera, Silas Lee, Samuel Lyman, Harrison G. Otis, Robert Page, Thomas Pinckney, Leven Powell, John Reed, John Rutledge, jr., Samuel Sewall, William Shepard, George Thatcher, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

NAYS—Willis Alston, George Baer, Theodorus Bailey, John Bird, Phanael Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William Charles Cole Claiborne, John Condit, Thomas T. Davis, John Dawson, George Dent, Joseph Dickson, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Gallatin, Samuel Goode, Andrew Gregg, William B. Grove, John A. Hanna, Thomas Hartley, Joseph Heister, William H. Hill, David Holmes, James Jones, Aaron Kitchell, Henry Lee, Michael Leib, Matthew Lyon, James Linn, Edward Livingston, Nathaniel Macon, John Marshall, Lewis R. Morris, Peter Muhlenberg, Anthony New, John Nicholas, Abraham Nott, John Randolph, John Smilie, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, John Chew Thomas, John Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

Mr. WALN then introduced an amendment he yesterday proposed to the second section, which reads thus: “That, excepting for foreign ships or vessels owned, hired, or employed by persons permanently residing in *foreign countries*, and *without the limits of the United States*, and commanded and wholly navigated by foreigners, no clearance for a foreign voyage shall be granted to any ship or vessel, &c., without a bond being given that it shall not enter a French port.”

A motion was made to strike out the words above printed in italic, and to insert, in lieu thereof, the word “Europe.”

The question on this motion was taken by yeas and nays, and carried—yeas 50, nays 46, as follows:

YEAS—George Baer, Bailey Bartlett, John Bird, Jonathan Brace, John Brown, Christopher G. Champlin, William Cooper, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich,

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Elizur Goodrich, William Gordon, Edwin Grey, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, Archibald Henderson, William H. Hill, James H. Inlay, John Wilkes Kittera, Henry Lee, Silas Lee, Samuel Lyman, John Marshall, Lewis R. Morris, Abraham Nott, Harrison G. Otis, Robert Page, Thomas Pinckney, Leven Powell, John Reed, John Rutledge, jr., Samuel Sewall, William Shepard, Richard Dobbs Spaight, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

YAYS—Willis Alston, Theodorus Bailey, Phaniel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William Charles Cole Claiborne, John Condit, Thomas T. Davis, John Dawson, George Dent, Joseph Dickson, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Gallatin, Samuel Goode, Andrew Gregg, William Barry Grove, John A. Hanna, Joseph Heister, David Holmes, James Jones, Aaron Kitchell, Michael Leib, Matthew Lyon, James Linn, Edward Livingston, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, John Randolph, John Smilie, Samuel Smith, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, John Thomson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

Several other amendments, but of less importance, were likewise adopted. The bill was restricted in its continuance to the 3d of March, 1801. It was then ordered to be engrossed for a third reading to-morrow.

THURSDAY, February 20.

INTERCOURSE WITH FRANCE.

The engrossed bill, entitled, "An act further to suspend the commercial intercourse between the United States and France, and the dependencies thereof," was read, and, on the question, "Shall this bill pass?" Mr. RANDOLPH called for the yeas and nays.

A long debate ensued on the passage of the bill. Messrs. MACON, EGGLESTON, and NICHOLAS, spoke against its passage, and Messrs. MARSHALL and GALLATIN in its favor.

The bill was passed—yeas 68, nays 28, as follows:

YEAS—Willis Alston, George Baer, Bailey Bartlett, James A. Bayard, John Bird, Jonathan Brace, John Brown, Christopher G. Champlin, William C. Cole Claiborne, John Condit, William Cooper, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, Thomas T. Davis, George Dent, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Albert Gallatin, Henry Glen, Samuel Goode, Chauncey Goodrich, Elizur Goodrich, William Gordon, Edwin Gray, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, Joseph Heister, Archibald Henderson, William H. Hill, James H. Inlay, James Jones, Aaron Kitchell, John Wilkes Kittera, Henry Lee, Silas Lee, Samuel Lyman, James Linn, John Marshall, Lewis R. Morris, Abraham Nott, Harrison G. Otis, Robert Page, Thomas Pinckney, Leven Powell, John Reed, John Rutledge, jun., Samuel Sewall, William Shepard, John Smilie, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, Benjamin Taliaferro, George Thatcher, John Chew Thomas, Richard Thomas, John Thompson, Peleg

Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

NAYS—Theodorus Baily, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, John Dawson, Joseph Eggleston, Lucas Elmendorf, John Fowler, Andrew Gregg, John A. Hanna, David Holmes, George Jackson, Michael Leib, Matthew Lyon, Edward Livingston, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, John Randolph, David Stone, Thomas Sumter, Abraham Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

TENNESSEE LANDS.

Mr. HARRISON, on account of an act lately passed by the Legislature of Tennessee, respecting certain land situated in that State, the title of which is disputed—whether belonging to the United States, or to that State—laid on the table a resolution for a committee to be appointed to make inquiry and report such facts as may come to their knowledge respecting the same, together with their agreement respecting the title thereof; and if found to be the property of the United States, to report as to the expediency of selling the same.

CREDIT FOR DUTIES.

Mr. SPAIGHT proposed the following resolution:

Resolved, That the Committee of Commerce and Manufactures be directed to inquire whether any, and what, further credit, may be given for duties on the articles of produce imported from the West Indies into the ports of the United States, and that they report by bill or otherwise."

The resolution was agreed to.

CASE OF JONATHAN ROBBINS.

Mr. LIVINGSTON proposed the following resolutions:

"*Resolved*, That it appears to this House that a person, calling himself Jonathan Robbins, and claiming to be a citizen of the United States, impressed on board a British ship-of-war, was committed for trial in one of the courts of the United States for the alleged crime of piracy and murder, committed on the high seas, on board the British frigate *Hermione*: That a requisition being, subsequent to such commitment, made by the British Minister to the Executive of the United States, for the delivery of the said person (under the name of Thomas Nash) as a fugitive, under the 27th article of the Treaty with Great Britain, the President of the United States did, by a letter written from the Department of State to the Judge who committed the said person for trial, officially declare his opinion to the said Judge that he 'considered an offence committed on board a public ship of war on the high seas to have been committed within the jurisdiction of the nation to whom the ship belongs;' and, in consequence of such opinion and instruction did advise and request the said Judge to deliver up the person so claimed to the agent of Great Britain, who should appear to receive him, provided only that the stipulated evidence of his criminality should be produced. That in compliance with such advice and request of the President of the United States, the said person so committed for trial was, by the Judge of the district of South Carolina, without any presentment or trial by jury, or any investigation of his claim to be a citizen of the United States, delivered up to an officer of his Brit-

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Uniform Bankruptcy, &c.

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annic Majesty, and afterwards tried by a court martial, and executed on a charge of mutiny and murder.

Resolved, That, inasmuch as the Constitution of the United States declares that the Judiciary power shall extend to all questions arising under the Constitution, laws, and treaties, of the United States, and to all cases of admiralty and maritime jurisdiction: and, also, that the trial of all crimes (except in cases of impeachment) shall be by jury; and that such trial shall be held in the State where such crime shall have been committed; but when not committed within any State, then at such place or places as Congress may by law have directed; and inasmuch as it is directed by law that the offence of murder committed on the high seas shall be deemed to be piracy and murder, and that 'all crimes committed on the high seas, or in any place out of the jurisdiction of any particular State, shall be tried in the district where the offender is apprehended, or into which he may be first brought:' therefore the several questions, whether the alleged crime of piracy and murder was committed within the exclusive jurisdiction of Great Britain; whether it comes within the purview of the said twenty-seventh article; and whether a person stating that he was an American citizen, and had committed the act of which he was accused in attempting to regain his liberty from illegal imprisonment, ought to be delivered up, without any investigation of his claims to citizenship, or inquiry into the facts alleged in his defence, are all matters exclusively of judicial inquiry, as arising from treaties, laws, Constitutional provisions, and cases of admiralty and maritime jurisdiction.

Resolved, That the decision of those questions by the President of the United States, against the jurisdiction of the courts of the United States, in a case where those courts had already assumed and exercised jurisdiction: and his advice and request to the Judge of the District Court that the person thus charged should be delivered up, provided only such evidence of his criminality should be produced as would justify his apprehension and commitment for trial, are a dangerous interference of the Executive with Judicial decisions; and that the compliance with such advice and request on the part of the Judge of the District Court of South Carolina, is a sacrifice of the Constitutional independence of the Judicial power, and exposes the administration thereof to suspicion and reproach."

The question of reference to the Committee of the Whole was taken and carried—yeas 55.

The House then adjourned.

FRIDAY, February 21.

Mr. VAN CORTLANDT presented a petition of a number of natives of Great Britain, residing at Mount Pleasant, State of New York, praying some modification of the last naturalization act. It was moved, first, that it be referred to a select committee; which was carried, and three members appointed. It was further moved that the committee have leave to report by bill or otherwise; which was negatived.

UNIFORM BANKRUPTCY.

The bill for establishing an uniform system of bankruptcy throughout the United States was read a third time.

Mr. BISHOP, after mentioning some amend-

ments which were still necessary to the bill, moved its recommitment to the Committee of the whole House for that purpose; which was negatived, as was also a motion by Mr. DAVIS, for the postponement of taking the question until Monday.

The question was then taken and decided in the affirmative, the House being equally divided—yeas 48, nays 48—the SPEAKER declaring himself with the yeas.

YEAS—George Baer, Bailey Bartlett, James A. Bayard, John Bird, Jonathan Brace, John Brown, Christopher G. Champlin, William Cooper, William Craik, Samuel W. Dana, Franklin Davenport, George Dent, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Henry Glen, Chauncey Goodrich, Elizur Goodrich, William Gordon, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, Archibald Henderson, James H. Imlay, John Wilkes Kittera, Henry Lee, Silas Lee, Edward Livingston, John Marshall, Lewis R. Morris, Abraham Nott, Harrison G. Otis, Thomas Pinckney, Leven Powell, John Reed, John Rutledge, jun., Samuel Sewall, James Sheafe, William Shepard, Samuel Smith, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

NAYS—Willis Alston, Theodorus Bailey, Phanuel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, John Condit, Thomas T. Davis, John Dawson, Joseph Eggleston, Lucas Elmendorf, Dwight Foster, John Fowler, Albert Gallatin, Samuel Goode, Edwin Gray, Andrew Gregg, William Barry Grove, John A. Hanna, Joseph Heister, William H. Hill, David Holmes, George Jackson, James Jones, Aaron Kitchell, Michael Leib, Samuel Lyman, Matthew Lyon, James Linn, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Robert Page, John Randolph, John Smilie, Richard D. Spaight, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

BOUNTY LANDS.

Mr. DAVIS, from the select committee to whom was referred the petition of John Mountjoy, made a report that it appeared the petitioner was entitled to bounty lands for services in the Army, and owing to some accident he had never obtained it. The committee therefore reported the following resolution:

Resolved, That the Secretary of War be directed to issue to John Mountjoy, late Captain in the service of the United States, the land warrant No. 2495 for three hundred acres of bounty land."

A motion was made that the House agree to the resolution, but on Mr. D. FOSTER wishing a general system to be adopted, in order to take up a number of cases of the same nature, and, as he observed, the subject was now before the Senate, the report was referred to a Committee of the whole House.

ISAAC ZANE.

Mr. HARPER, from the committee to whom was referred the petition of Isaac Zane, praying a fee simple for certain lands on which he had settled,

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and which was granted to him by the Wyandot nation of Indians, prior to a treaty by which those lands became the property of the United States, reported a resolution for a committee to be appointed to bring in a bill to convey the same accordingly.

The report was referred to the Committee of the Whole.

DUTIES ON STILLs.

Mr. HARPER also made a report from the Committee of Ways and Means on the petition of David Wiley, and others, praying exemption from their part of the duty on stills, on account of an accidental want of water, so as to prevent them making use of their stills. The Committee were of opinion that these accidents may frequently occur, and that it was not proper for the revenue to sustain loss thereby, and therefore reported that the prayer of the aforesaid petitioners ought not to be granted, and that they have leave to withdraw the same.

The House took up the report for a second reading, and agreed thereto.

ESTIMATES FOR THE YEAR 1800.

Mr. HARPER also made a report from the Committee of Ways and Means of the estimate of moneys necessary for the service of the present year. The following is a summary of the statement:

The amount of necessary supply for the present year, agreeably to the estimate of the Secretary of the Treasury - - - - -	\$15,393,034 11
From this is to be deducted one million, on account of the suspension of further enlistments in the Army - - - - -	1,000,000 00
Add to this a suspension of building of the six seventy-four gun ships for the present year, which the committee conceived it expedient to do—the present year's estimate for that item was - - - - -	600,000 00
	1,600,000 00
Loans, a sum to be provided for in the present year of - - - - -	13,793,034 11
To meet this expenditure, the receipts of the present year were estimated at - - - - -	9,301,258 51
Deduct this revenue from the aforesaid expenditure, would leave a sum to be provided for, above the revenue of the present year, of - - - - -	4,491,775 60
There remained in the Treasury, of the last year's appropriation - - - - -	2,159,377 10
But, as part of this would be wanted for contracts yet remaining due, not more than one million would be left on hand towards this year's expenditure, which, deducted, - - - - -	1,000,000 00
Would leave a balance to be procured, over and above the revenue, of - - - - -	3,491,775 60

The committee reported that they have turned their attention to the object of revenue, but had not yet decided as to their report, and therefore they thought proper to submit a resolution to the House to authorize the President to procure, by loan, for the services of the present year, the sum of \$3,500,000, at such rates as he may find most for the interest of the United States.

The report was ordered to be printed and referred to a Committee of the Whole House.

EULOGIUM ON THE CHARACTER OF WASHINGTON.

A message was received from the Senate, informing the House that the Senate had this day come to the following resolution, viz:

"Resolved, That the Senate will to-morrow, at half past 12 o'clock, meet in the Senate Chamber, and from thence walk in procession to the church in Race street, to hear the eulogium to be pronounced on the character of General Washington."

Ordered to lie on the table.

The SPEAKER said he was requested, by a member of the Catholic church, to inform the House that seats were provided for the accommodation of such members as would please to attend to hear the delivery of the oration to-morrow.

Mr. RUTLEDGE said, before the receipt of the message from the Senate, he had intended to move that when the House adjourn they do adjourn till Monday; but the Senate having informed the House that they intended to walk in procession, he conceived this House ought to come to a similar resolution, and moved the following:

"Resolved, That the House of Representatives will meet to-morrow, at half past 12 o'clock at their Chamber, and from thence walk in procession to the church in Race street, to hear the eulogium there to be pronounced on the character of General Washington."

It was objected to this resolution, that it had not been contemplated this House would walk in procession, no arrangement having been made for that purpose; and that as it might be the wish of several members to attend the oration at the Catholic church in preference to the one in Race street, it ought to be left to their own option.

The question on the resolution was put and negatived—yeas 40, nays 43.

SUNDRY BILLS.

The House took up the report of the Committee of Commerce and Manufactures, on the amendments of the Senate to the bill providing for salvage in case of recapture, and concurred therein.

A message was received from the Senate, informing the House that the Senate had passed the bill, entitled "An act, in addition to the act, entitled 'An act for regulating the grants of lands for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen,' with sundry amendments.

The bill and amendments were read and referred to the select committee who reported it.

Mr. HARPER, from the committee appointed for that purpose, having obtained leave, reported a bill to extend the privilege of obtaining patents

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for useful discoveries and inventions, to certain persons therein mentioned, and to enlarge and define the privileges of patentees; which was read and referred to a Committee of the Whole House.

The House went into a Committee of the Whole on the bill to allow a drawback of duties on goods exported to New Orleans, and therein to amend the act, entitled "An act to regulate the collection of duties on imports and tonnage," when the bill was agreed to without amendment, and ordered to be read a third time on Monday next.

MONDAY, February 24.

An engrossed bill, entitled "An act to allow drawbacks of duty on goods exported to New Orleans, and therein to amend the act for the collection of duties on imports and tonnage," was read the third time and passed.

Mr. THATCHER, from the Post Road Committee, reported a bill "to alter and establish sundry post roads;" which was twice read, and committed to the whole House, and made the order for Thursday.

Mr. DANA reported a bill to provide for the execution of the 27th article of the Treaty of Amity, Commerce, and Navigation, made with Great Britain; which was twice read, and referred to a Committee of the whole House for to-morrow.

Mr. HARPER, Chairman of the Committee of Ways and Means, to whom were referred the amendments proposed by the Senate to the bill "providing for the enumeration of the inhabitants of the United States," reported their concurrence with the amendments proposed.

The House took up the amendments, and agreed to all, but one. The title was altered to that of "An act providing for the second census, or the enumeration of the inhabitants of the United States."

WESTERN LANDS.

The House resolved itself into a Committee of the Whole on the report made the 18th instant, by the committee appointed to inquire whether any, and, if any, what, alterations are necessary in the laws providing for the sale of the lands of the United States Northwest of the Ohio; and, after some time spent therein, the Committee rose and reported several resolutions thereupon; which were severally twice read, and agreed to by the House, as follows:

Resolved, That all the townships directed to be sold, either in quarter townships or in tracts of one mile square, by the act "providing for the sale of the lands of the United States, in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river," shall be subdivided into half sections, containing, as nearly as may be, three hundred and twenty acres each: the additional expense of surveying to be paid by the purchaser, at the rate of three dollars per tract.

Resolved, That all the said lands shall be offered for sale at public sale, in tracts of three hundred and twenty acres as above directed: *Provided*, That the same shall not be sold under the

price of two dollars per acre, and that the sale shall be at the following places, to wit:

All the lands contained in the seven first ranges of townships, and north of the same, shall be offered for sale at Pittsburg.

All the lands contained in the eight next ranges of townships, shall be offered for sale at Marietta.

All the lands lying west of the fifteen first ranges of townships, and east of the Sciota river, shall be offered for sale at Chillicothe.

All the lands lying below the Great Miami shall be offered for sale at Cincinnati.

Resolved, That one or more land offices shall be opened in the Northwestern Territory, and that every person be permitted to locate and purchase at the rate of two dollars per acre, one or more of the half sections that shall not have been sold at public sale.

Resolved, That the payments for lands purchased either at public or private sale, may be made as heretofore in public securities, and shall be made in the following manner, and under the following conditions, viz:

1st. At the time of purchase, every purchaser shall deposit one-twentieth part of the amount of purchase money; to be forfeited, if, within three months, one-fourth of the purchase-money, including the said twentieth part, is not paid.

2d. One-fourth of the purchase-money to be paid as aforesaid, within three months, and the other three-fourths in three equal payments, within two, three, and four years, respectively, after the date of the purchase.

3d. No interest to be charged in case of punctual payment; but interest at the rate of six per cent. a year, to be charged from the date of purchase, on any part of the purchase-money which shall not have been paid at the times, respectively, when the same shall have become due.

4th. A discount at the rate of eight per cent. a year, to be allowed on any of the three last payments, which shall be paid before the same shall have become due.

5th. If any tract shall not be completely paid for within one year after the date of the last payment, the tract to be sold in such manner as shall be provided by law; and after paying the balance due to the United States, including interest, the surplus, if any, to be returned to the original purchaser.

Ordered, That a bill or bills be brought in, pursuant to the said resolutions; and that Mr. HARRISON, Mr. BRACE, Mr. GORDON, Mr. DAVIS, Mr. LYMAN, and Mr. GALLATIN, do prepare and bring in the same.

SALT SPRINGS AND LICKS.

The House resolved itself into a Committee of the Whole, on the report made the 19th instant, by the committee appointed to inquire whether any, and, if any, what, alterations are necessary in the laws providing for the sale of the lands of the United States Northwest of the Ohio; and, after spending some time therein, the committee rose and reported a resolution thereupon; which was twice read, and agreed to by the House, as follows:

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Resolved, That all the salt springs and licks, the property of the United States, in the Territory Northwest of the Ohio, ought to be leased for a term not less than — nor more than — years.

Ordered, That a bill or bills be brought in, pursuant to the said resolution, and that Mr. HARRISON, Mr. BRACE, Mr. GORDON, Mr. DAVIS, Mr. LYMAN, and Mr. GALLATIN, do prepare and bring in the same.

CASE OF MOSES WHITE.

The report of the Committee of Claims on the petition of Moses White, praying liquidation of his claim as aid-de-camp, in the Revolutionary Army, to General Hazen, was read. The committee reported a resolution to direct the accounting officers of the Treasury to pay the claim.

Objection was made to the claim, because the commanding officer was only a Brigadier General *pro tem.*, and not in full commission, and that, even if the claim had been just, the statute of limitation had barred it; that there were a number of cases not only equal but superior in claim to the present, which had been opposed on the ground of the statute, and, therefore, this could be no claim under the present law and usage, since no law allowed any supernumerary aid; and if supernumerary aids were appointed, they never had extra pay.

On the other hand, it was contended that the claim was just; that application was made long since for a settlement of this claim; that others had been allowed their pay under similar circumstances; that the only objection made at the Treasury was that the commander held the office by brevet, and not by commission; but it was essentially the same. If the claim was ever just, and the services actually performed, it ought to be granted; that there was no danger of establishing a precedent in this case, because there was no claim precisely of a similar nature.

The Committee of the Whole disagreed to the resolution, 37 to 48; which disagreement was reported to the House, was taken up therein, and agreed to—48 to 33.

THE FISHERIES.

The House resolved itself into a Committee of the Whole, on the bill to continue in force an act concerning certain fisheries of the United States, and for the regulation and government of the fishermen employed therein, and for other purposes therein mentioned.

In the Committee of the Whole, it was agreed to fill the blank of years with *ten*. The Committee rose, and reported the amendment.

Mr. GALLATIN thought it would be proper for Congress to examine into this subject before they proceeded too far, to know whether it was an object worthy of notice or not; and, further, to bring it into some proportion to the tax on salt, the additional duty on which was prescribed to about two years from this time.

Mr. SEWALL thought that there was a necessity of giving this time to the law, in order to remove the discouragements under which fishermen had

labored, and which alone could encourage the trade to be carried on to any extent, because this law was meant to operate as a bounty; but he did not think the amount now paid as a bounty was equal to the single duty on salt.

Several gentlemen spoke on this subject. At length the amendment was carried, 40 to 26, and the bill was ordered to be engrossed for a third reading.

TUESDAY, February 25.

Mr. GALLATIN proposed the two following resolutions, which were agreed to by the House:

Resolved, That the committee appointed to prepare and report a bill to amend an "Act providing for the sale of the lands of the United States Northwest of the river Ohio, and above the mouth of Kentucky river," be instructed to prepare and report a bill appropriating a tract of land sufficient to satisfy the claims of the Nova Scotia and Canada refugees, and designating the mode in which their respective bounties in land shall be located.

"*Resolved*, That the Clerk of this House, with the approbation of the Speaker be authorized to employ such farther assistance as may be necessary in his office during the present session, to be paid out of the contingent funds of this House."

THE FISHERIES.

An engrossed bill, entitled "An act to continue in force an act concerning certain fisheries of the United States, and for the regulation and government of the fishermen employed therein, and for other purposes therein mentioned," was read the third time, and on the question, "Shall this bill pass?"

Mr. MACON observed that he could see no reason why this article of provision should be entitled to a bounty in preference to beef, pork, and fish, which required salt in their curing, as well as codfish. It was, in fact, taxing all other species of labor in order to give a bounty to this particular one.

Mr. SMITH said that, at the first passage of this bill, it was considered as a drawback on the salt used, and, in that view, the same benefit was extended to all other salted articles of export. In the salting of beef, pork, mackerel, or herrings, a certain quantity of salt was estimated to be used in each barrel, but it was not so with codfish, and, therefore, a certain sum was supposed to be equal to the drawback. This sum very possibly operated as a bounty; but even if it did so, and was brought forward with that ostensible design, Mr. S. considered it very proper; for how, he asked, could a navy be supported if there was not some nursery wherein to increase the number of our seamen?

The bill was then passed—yeas 51.

LANDS FOR MILITARY SERVICES.

Mr. HARRISON from the committee to whom were referred several amendments proposed by the Senate to the bill for regulating the grants of lands for military services, &c., reported their agreement with some of the said amendments and their disagreement with others.

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The House took up the report and agreed to it. The Senate afterwards asked a conference thereupon, which was agreed to, and three members appointed on the part of the House.

GILBERT DENCH.

Mr. OTIS presented the petition of Gilbert Dench, praying pay for certain contracts which he had fulfilled during the war. A motion was made to refer it to the Committee of Claims.

Mr. D. FOSTER wished to know why it was to be referred to that committee. This petition had several times been referred to that committee and reported against. Why the committee should so repeatedly be harassed he could not tell.

Mr. OTIS said he had no hidden motive in making his motion; it was impossible for him to know the particulars of the claim; however, he had been informed that some new facts would come before the committee if it was submitted to them.

The petition was not referred, 26 only voting for it.

CASE OF JONATHAN ROBBINS.

The House having resolved itself into a Committee of the Whole on the Message of the President respecting Jonathan Robbins, a short debate took place whether the Committee should take up the business of the resolution first proposed by Mr. BAYARD, or those subsequently offered by Mr. LIVINGSTON. Mr. BAYARD seemed inclined to withdraw his motion, but the Committee seeming of opinion that both resolutions were within their jurisdiction, and that they might proceed on either, the question was taken whether the Committee would proceed on the resolutions of Mr. LIVINGSTON, and carried in the affirmative. Messrs. BAYARD, RUTLEDGE, OTIS, &c., voting in favor of the question, and Messrs. LIVINGSTON, NICHOLAS, &c., against it.

Mr. LIVINGSTON then entered upon an argument in support of the resolutions which he had some days before submitted to the House, and which now were taken up. Soon after he began the discussion, he was proceeding to read a deposition of Jonathan Robbins, and certificates accompanying the same, to prove himself a citizen of the United States, in which the deponent swore, before the court of South Carolina, that he was born at Danbury in the State of Connecticut, and that he was impressed from on board the American brig Betsey, by the crew of the British frigate, about two years before, where he was detained contrary to his will until the mutiny occurred.

Mr. BAYARD opposed the reference to a fact so incompetently authenticated as the report of a case upon newspaper testimony, especially when, if it had been the desire of the gentleman to have introduced it as evidence, it was extremely easy to have procured the record of the court before he proceeded on his allegations. If such evidence as this was to be admitted, other and perhaps more important evidence might next be introduced to impose on the Committee. Besides, it certainly must be looked upon as *ex parte* evidence, which it was impossible to repel. Mr. B. submitted to

the Chair whether it would be in order to admit any fresh evidence to support the resolutions, when all the documents which had been asked for, and which had come to the knowledge of the Executive, had been submitted to the House.

Mr. GALLATIN, on the question of order, contended for the admission: this document, he said, was referred to as authentic, in his letter. He says, "That, by the proceedings before that Judge, (Bee,) as they have been published, it appears that a seaman named Thomas Nash did assume the name of Jonathan Robbins, and make oath that he was a native of the State of Connecticut," &c. Certainly it cannot be deemed improper to refer to the identical document there mentioned. If it was proper for the Secretary of State to make the allusion, the House could take it up under the same idea. He did not think it was introduced as evidence before the Committee.

Mr. DANA said he was very sorry the gentleman had been interrupted; he could not think of admitting it as evidence, but the gentleman might read it as part of his speech, which perhaps might otherwise have a chasm in it.

Mr. BAYARD was fully of opinion, with the mover of these resolutions, that it was a very serious business; he believed there was a very serious object in view. He believed the affidavit was introduced as evidence, else why should the gentleman have taken this in connexion after he had been stating the facts contained in the Message?

It was further said that this deposition was referred to by the Secretary. Surely then it was introduced as evidence upon that authority; but how had the gentleman been assured that this was the same deposition, an extract of which was taken by the Secretary? Did it follow, that because the Secretary referred to a printed paper, that this was the authentic one? He presumed no gentleman would vouch for the veracity of this paper. The Secretary had only extracted from the document such parts as he deemed necessary for the information of the House, supposing this was the case meant.

Mr. NICHOLAS was surprised that the gentleman should oppose the reading of what he supposed the Secretary had authenticated copies of in his office. The Secretary had certainly referred to an authenticated affidavit which was published, and it was presumable this was the one. The result of this declaration must be, if the gentleman thinks the House is imposed upon by a reference to a false paper, that the Committee must rise, and the House ask for the authentic copies which may aid their decision.

But Mr. N. thought the information was sufficiently authentic; the House had asked the papers of the President; some papers were sent, and, instead of sending this original paper, he had referred to the printed report. This had never been contradicted, and had every appearance of authenticity. He really hoped that the objection would not be insisted on, and the discussion be arrested in this stage.

Mr. RUTLEDGE hoped the paper might be read, but not for the purpose for which it was introduced;

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he wished it to be read as part of the gentleman's speech, but he did not think this was the proper time. He did not think the gentleman had come to that *chasm* in his speech which was supposed by the gentleman from Connecticut. The gentleman had produced facts and stated evidence, among which he was proceeding to introduce this paper. Mr. R. said he was willing to procure all the information, and that other gentlemen should also be possessed of it; on which account, when the subject was first mentioned, he moved its reference to a select committee. In that case, all the facts and every necessary light would have been procured; but it was referred to a Committee of the Whole.

Mr. SEDGWICK thought, as this was merely a question of order, and as the acts and deliberations of the Committee of the Whole were prescribed, it could only have been proper to have made it an act of the House. The Committee of the Whole, he said, were limited to the documents referred to it by the House; and if they found them insufficient, it was their duty to rise and go to the House for more.

If it was the intention of the gentleman to read this as evidence, (which we must suppose was intended,) and it was not evidence, it might shed darkness, but it could not illuminate. He was surprised that gentlemen who were sitting there in their inquisitorial capacity should bring forward charges of a serious nature against two officers of high confidence, and deservedly so, in the public opinion, upon evidence which cannot be deemed authority, when, for merely asking, they could receive that which was authentic. Mr. S. said he was not afraid of the reading of any papers whatever, on any subject, because he must profess a desire to come at the whole truth; if there be a man, who possesses the public confidence unworthily, strip him of that confidence, and his power too, but do it not, sir, on a bare newspaper publication.

Mr. S. said that his reasons for opposing the reading was not because the paper was deficient of that formality which courts of justice required; he should therefore waive formalities, except the evidence should appear evidently false. But the deposition itself he believed to be perfectly irrelevant to the object of inquiry. It was not, in his opinion, material whether this man claimed to be an American citizen or not, nor was it material whether the paper in question was in the office or not. He thought the only inquiry to be whether the President had interfered with the Judicial authority, or not; and whether the Judge had been guilty of a breach of his duty in obeying the orders given him by the Executive of the United States. There was, to be sure, allusions made to a printed trial, but it was by the Secretary of State, and not by the President. He had said no such thing, and therefore he was not culpable. The only thing, he believed, which the President considered, was, what must appear a very clear and well-ascertained fact, to wit: that a ship or vessel of any Power was to be considered as within the jurisdiction of that Power to whom it belongs, and not whether the man was an American citizen or not.

Mr. LIVINGSTON said he did wish to read this paper as part of his speech; and he believed it a very material part, because it was a justification of a point which he wished to establish; he wished to show the Committee that Jonathan Robbins claimed to be an American citizen, and that he said he was impressed. This he swore to in court; and that he did so, he hoped would be admitted. He said he only introduced it with this view. Surely he could not be so far mistaken in his law knowledge as to be thought to have said that the culprit could be evidence in his own behalf. If *he did say* he was a citizen, then the matter, upon examination, must appear more serious than gentlemen would be willing to think.

Did the Speaker think it was his desire, Mr. L. asked, to criminate the man who stood so deservedly high in the public estimation? Surely the mere reading of this paper could not contribute to that crimination, since it was, with the other papers, furnished to the House as documents which were asked for by the House. The House received these papers (these among others, for to this the Secretary referred the House) to assist them in forming their judgment. If "newspaper evidence" was given to the House, (if authenticated affidavits,) who then was to blame? The House asked for all papers relative to the subject; the President furnished these, and therefore if any blame attached, it must be to him.

It was said that this paper was in the office of the Secretary of State; that this was not an act of the President; that this was a report of the Secretary of State, and that he only was answerable for it. Sir, said Mr. L., when the President says that he, in conformity to the request of the House, had ordered the Secretary to bring him the papers, and that he submits them to the House for their consideration, does he not take the act off the Secretary and appropriate it to himself? Certainly he does.

The conduct of gentlemen must appear a little strange when it is considered that a part of these papers—such as certain affidavits from Connecticut that Robbins was not born there, and a letter from the British Admiral in the West Indies, stating that he was an Irishman, and entered into the service—I say it is unaccountable that gentlemen are willing to admit this part of the report, which was never required by the House, and refuse another part which was, and of which it was the duty of the House to be informed, if information could be had. Information is sent, but it must not be admitted! Sir, this is to be considered as an act of the President; it is to be considered that this affidavit is quoted, and ought to be wholly read, since it is the part upon which we are to proceed to the investigation.

Mr. BAYARD had no doubt but it was the gentleman's intention to impress the force of the facts contained in that paper upon the minds of that Committee; and to suppose it would have no impression would be absurd. It would afterwards be said that this man was admitted to be an impressed American citizen, and that he was praiseworthy in committing what would then be called

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the homicide. The decision of the Committee would be much affected, he said, by the kind of evidence which was adduced. If this was admitted, it would be impossible to ascertain the extent of the principle. Other depositions may be produced—indeed, he had no doubt but the gentleman could get proof to any point which he might think it material to ascertain. In saying this, he did not mean to insinuate that any improper steps would be taken by that gentleman, but there were volunteers enough to be found who would step forward in order to answer a party purpose, and make oath of anything.

But the gentleman had now acknowledged that his reference to that paper was a work of supererogation; he now said that he only wanted to prove that the man *claimed* to be an impressed American citizen. This is admitted in the letter of the Secretary of State. Sir, said Mr. B., you are about to inculpate the conduct of the President, and of the District Judge of South Carolina; and, to do this, will you do it on the affidavit of a man at the hazard of his life, a man who could commit murder and piracy, for which he was then going to be executed? It was the last resource of the wretch himself.

Mr. B. had no doubt but the gentleman would have brought that paper as evidence; and the evidence, though derived from the vilest possible source, he would certainly have turned to serve his point. With this idea, and for the sake of consistency, (for the rules of the House would admit, in any other part of the examination, what was now admitted,) and viewing the principle as injurious, he had thought it his duty to put a stop to it in time.

Mr. LIVINGSTON supposed he should increase the astonishment of gentlemen still more when he declared that he did not believe a word of the affidavit; but he believed Nash was an Irishman, and that he entered on board and committed all the crimes charged to him. It was clear that this affidavit could not be evidence. In admitting this, he believed he did not surrender one point of the resolutions; he should prove that all which he wished to ascertain was that such claim was made to the court.

Mr. GALLATIN did not consider the question to be whether this should be considered as evidence, but whether the gentleman might be permitted to read the paper—whether as part of his speech or whatsoever else. It was certainly no legal evidence; and, therefore, if a trial was holding, or if the ground was an impeachment, refusal would be proper; but upon what ground the gentleman was interrupted at this time was inconceivable, except it was to throw all possible impediments in the way of the investigation. The letter from the British Admiral to the British Consul was not legal evidence; but yet that was inserted in the report of the Executive; that was sent, no doubt, to disprove some fact which was related. What was that fact? Why, that this man laid claim to citizenship. Surely, while the gentleman was stating the facts contained in his resolutions, he had a right to elucidate those facts by reading a paper so intimately connected therewith.

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Mr. G. said he did not know what use the gentleman made of this paper, but it is certainly proper to hear what he intended by the reference, before he ought to have been stopped. There certainly could be no doubt, Mr. G. thought, that the Secretary of State knew this affidavit to be authoritative, by the reference made to it. If this paper could not be read, for himself he should wish to procure further information before he should think proper to proceed.

Mr. BAYARD asked where could be the necessity of proving a fact which every member of the House was willing to admit. All acknowledged that Nash claimed to be an American citizen; but perhaps the wish of the gentleman was to have additional light on this subject, on which account he introduced the deposition. But, Mr. B. said, he was willing only to proceed upon what the House knew from the documents before them, and not take a step on precarious ground. It must be well known what the gentleman wanted to get this admission for; he no doubt wished to prove that, upon his own mere suggestion, he was an American citizen, and that he was impressed—he was entitled to a trial by jury in this country, and on that account the act of sending him away was unconstitutional. This would lead to an extensive field of argument. If there was any necessity for more evidence, or to call witnesses to the bar of the House, let proper measures be taken to procure them, but let them not come forward in any other way.

Mr. DANA read the resolution first offered to the House for a call for papers relative to Jonathan Robbins; this was answered, he said, by the Secretary of State, that no requisition or proceedings had been had in that name; but he presumed allusion was made to the case of Thomas Nash, concerning whom proceedings were had in the district court of South Carolina; in that way, and that only, the Secretary made reference to the printed report. In this blundering way, Mr. D. said, the business was begun. [He was called to order.] In addition to this, he said, the proceedings of gentlemen were erroneous; but, notwithstanding that, Mr. D. said, he would gratify the feelings of the gentleman, as far as his vote would go, for him to read it, but only as part of his speech. No doubt he wished to support some point of his argument by it, and in that view he had a right to read it; but that it was evidence, he denied.

Mr. LEE said he did not profess to understand the rules of the House perfectly, but he must indulge a presumption that they could have but one grand object in view—to encourage and maintain full and fair discussion on every subject, whatever it might be, that should come before the House. That being necessary, surely a rule must be bad, indeed, that would bar a gentleman from reading anything that might tend to elucidate this subject. He therefore thought it the duty of the Committee to allow the member from New York to read this and every other paper which might enable him to proceed on so serious a charge as the one exhibited in the resolutions. Were not gentlemen fully adequate to judge what may be wrong when he

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should come to the application? If he asked the papers of the President of the United States, was he to be content with those only which should come through his Ministers? That could not be the true ground of proceeding.

Suppose the gentleman should be stopped from reading what he thinks material, and the resolutions which he has introduced should afterwards be negatived, I pray you to say, sir, said Mr. L., what would be the consequence? Would not the people say that no other possible decision could be had by the House, because the Committee of the Whole laid their hand upon every effort the gentleman used to substantiate his charges? They certainly will; and no act can more increase the means of opposition to the measures of the Government.

Upon this ground he hoped the gentleman would be permitted to proceed, and the whole truth be made to appear. If gentlemen should determine it out of order, he would move that the Committee rise, in order to get hold of all the authentic papers.

The CHAIRMAN having stated his reasons, concluded with an opinion that the member could not proceed to read the affidavit.

Mr. GALLATIN appealed to the Committee from the decision of the Chair; when there appeared 39 in favor of the decision, and 48 against it.

At this point the Committee rose, and had leave to sit again.

WEDNESDAY, February 26.

Mr. OTIS again called the consideration of the House to the petition of Gilbert Dench, which was yesterday refused a reference to the Committee of Claims; he stated the claim in strong colors, and added that new evidences were to be exhibited, on which account he moved its reference to a select committee.

A reconsideration was moved by Mr. KITCHELL, and the petition was referred to the Committee of Claims.

WRECKED VESSELS.

Mr. SPAIGHT proposed a resolution to the following effect:

Resolved, That the Committee of Commerce and Navigation be directed to inquire whether any, and what, regulations ought to be made in respect to vessels, goods, wares, and merchandise, wrecked on the coasts; also, of such goods, wares, and merchandise, as may be saved from wrecks and brought into the ports of the United States, and that they report by bill or otherwise."

This resolution was agreed to.

CESSION OF CONNECTICUT.

Mr. BRACE called up the following resolution for consideration, which he presented on the 18th instant:

Resolved, That a committee be appointed to take into consideration the expediency of accepting from the State of Connecticut a cession of jurisdiction of the territory west of Pennsylvania, commonly called

the Western Reserve of Connecticut, and that they report by bill or otherwise."

The resolution was agreed to, and seven members appointed accordingly.

CASE OF JONATHAN ROBBINS.

Mr. DAVIS moved that the Committee of the whole House be discharged from the further consideration of the resolutions proposed by Mr. LIVINGSTON and Mr. BAYARD, on the affair of Jonathan Robbins. The small progress, Mr. D. said, which was made yesterday in the discussion, fully convinced his mind that nothing at all would be done in it; besides, were he convinced that the subject would be impartially conducted, he did not know of any possible good that could arise from the adoption of the resolutions. If there had been any error in the proceedings of the Executive, he conceived that error would correct itself. If there was an improper interference, he was certain it could not have arisen from improper motives, and therefore he sincerely hoped he should not be called upon to give an opinion on the subject. Nor, on the other hand, was he at all prepared to compliment the Executive, or any officer of the Government, for having done what he thought to be right. If he had done right, it was his duty. He did not think it of any great importance; but, most assuredly, if the argument was extended, it would be made a case of much importance. It was better, however, to let the case of Jonathan Robbins sleep in the Committee of the Whole, where it then was. He was not prepared to criminate, nor was he prepared to applaud.

Mr. D. did not think the evidence before the House was sufficient to form a decision upon, and he professed himself unable to make up a determinate opinion; but, if he could form any, the deficiency of evidence furnished must raise his suspicion. Reference was yesterday made to a paper—it might be authentic or it might not—but it was impossible to say to what papers gentlemen might be disposed to refer; and for gentlemen to sit there as judges, having papers read, the authenticity of which it was impossible to know, was to judge in the dark. He hoped that if the House were not prepared to discharge the Committee of the Whole, they at least were prepared for a call for such authentic papers as could be procured; for, from the present documents, it was impossible to form a correct judgment upon this very disagreeable and irksome business. He had no doubt but many gentlemen had formed their judgments one way or the other, but he had not.

Mr. RANDOLPH said, that no gentleman had a higher respect for the motives of the gentleman from Kentucky than himself; but, however disagreeable it might be, he must differ from him in his present opinion. He really hoped the gentleman would reconsider the motion he had made, and not stop the gentleman from New York in this early stage of the business. If there were any defects in the papers, and their authenticity was questionable, it must not arise from the gentleman from New York, but from those whose

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duty it was to furnish all the facts relative to the subject. He was obliged to read a printed paper, because those with whom the authoritative copies are have not thought proper to furnish the House with them. He hoped, if a stop was put to the proceedings, it would not be to discharge the Committee, but to call for authentic copies of all the papers within the reach of the Government. It must be acknowledged that the man whose case the House are considering did put in his claims to citizenship, and to the protection of his country on that account. If that acknowledgment is refused on account of the paper which has been produced being a newspaper, reference must be made to what is within the reach of the House—more authentic papers.

The gentleman had supposed that most of the members had made up their minds on the subject without other papers. Where he procured that information Mr. R. could not tell, but certain it was that his mind was not made up; he professed to be still in a state of incertitude. He therefore was sorry the gentleman had not delayed to make his motion until it should be known by the House whether the gentleman from New York had any further evidence to adduce. Could he undertake to say that his mind would not be made up, and the subject appear to him in a very different point of view, after a full and fair discussion?

Mr. R. thought the very reason which the gentleman had given for his motion would operate as a strong argument against it; with him it certainly had that impression. He thought a discussion was more proper to remove incertitude from the mind, than that, because such a state existed, the Committee should be discharged. The public mind, he believed, was very uneasy upon the subject, and this state of disquiet was not to be eluded; he therefore ought to have withheld his motion, that a discussion might be had, from which the people could draw their deductions. If, after all the evidence that was to be produced, he could draw a conclusion similar to that expressed by the gentleman, Mr. R. said he would cordially join with him that no expression ought to be made by the House without being well supported by facts.

Mr. H. LEE considered the motion would have the complete effect any gentleman could wish whose desire it was to reprobate the conduct of the Administration of our Government. How could the motion be necessary—how be useful? If they were to ask more evidence, said Mr. L., I would vote for it to be produced; they have brought the subject before the House—let us see it in the purest colors which it can be placed in. We are ready to meet them here; we are willing they should have every evidence that can be obtained to elucidate their charge; but let not the Executive be hung up to reproach without a trial; let not suspicion be encouraged, which must have all the effects of a substantiated charge. I wish them to go on with the discussion, that all the truth may be disclosed, and every fair light be given which the case will bear; for now the people of the United States have their eyes fixed upon our proceedings on this important question.

Mr. MACON was in favor of the motion. If the Committee of the Whole was not to be discharged, he hoped at least the subject would not be postponed till the public business of the session was over; there were many public bills, he said, that must be passed. The House was called upon to judge with almost no testimony, and yet upon this uncertain ground, perhaps a whole week might be spent of the most precious time of the House; for if the House was to rise at the time proposed, the loss of this time would certainly be felt.

As to the impression it would leave on the minds of the people, they had as many facts to judge from as the House, and they certainly would form an opinion, whether the House did so, or not. Gentlemen were very much mistaken, he said, if they undertook to lead the people; they would think, and they would show what their judgment was when a proper time came for that purpose. The time the people would take to show their approbation or disapprobation of the measures of the Administration was at elections, and then they would do it.

Mr. SMITH said, if the object of the motion was to get better testimony, he thought it a very proper one; the House certainly ought to be possessed of the documents of the District Court of South Carolina, on this case, in an authentic form, and not from newspaper information. He professed himself to be in the precise situation of the mover, and, if called upon to vote without more evidence, should be at loss to know how to vote.

Mr. DANA was against the postponement of the subject, or the rising of the Committee. It was to be recollected that the business had assumed its present shape only in consequence of the zeal of the gentleman from New York, and his coadjutors, to censure the Executive. On the 7th of February, it was committed to the whole House; contrary to the opinion of a number of gentlemen, who wished the facts investigated by a select committee; thirteen days then elapsed before he had prepared his resolutions—resolutions not calculated to make an inquiry into the conduct of the Executive, but expressive of the most pungent censure upon his conduct. These resolutions were produced upon the papers which, at the desire of those gentlemen, were submitted to the House. The only question then, is, Do the papers upon which those resolutions are predicated warrant the censure contained in them, or not?—It certainly would be a high reproach to the very idea of a public inquisition to admit more evidence upon those grounds. Still, however, let gentlemen go on in their heterogeneous proceedings, the House would have the wisdom justly to appreciate the various attempts made to clear themselves of a predicament in which their over-arduous attempts to censure had thrown them.

Mr. SHEPARD thought the best way would be to let the resolutions take their course; they must be debated sooner or later, and the sooner they were disposed of the better. He was sorry they ever had been introduced in the House, but, as they were, he hoped no postponement would take place.

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Mr. LIVINGSTON conceived it his duty to answer the observations of the gentleman from Connecticut, (Mr. DANA,) as to the resolutions being founded upon the facts then before the House. He did not think the facts were precisely sufficient to warrant every idea contained in the resolutions. When the original call for papers was agreed to by the House, he had hoped that something more authentic than newspaper testimony would have been referred to by the Executive; and upon that he was now compelled to act, if at all. The gentleman has said that my zeal and that of my coadjutors, to censure the Executive, has brought us into this situation. Who, sir, I would ask the gentleman, are my coadjutors? That gentleman himself was my coadjutor, and every gentleman in the House, because the resolution was adopted. The House directed the inquiry, and every gentleman must therefore take the burden, in part, with me. It was upon the suggestion of the notoriety of the facts that the inquiry was made, and now we are about to enter into the inquiry upon the facts with which we are furnished. We never can act but upon the evidence we have to guide that action. If the facts contained in the resolutions cannot be substantiated, if they shall fail to justify the conclusions we mean to draw from them, we certainly cannot be worthy of blame for not possessing more. I consider the affidavit yesterday produced as only supporting one branch of the conclusion that may be drawn from the whole. Whatever gentlemen may say as to the folly or hasty zeal of the resolutions, I can assure them that they are the result of many days of most serious reflection. They were not drawn in haste, and I am not afraid to say that they can be well substantiated—every fact contained in them. I am sufficiently prepared to proceed, and, therefore, hope this motion will be negatived, and a calm and deliberate investigation be had. If the deductions I shall make will not be satisfactory, then let it drop. I am, however, well satisfied of their force.

Mr. CRAIK said, that very early in this business he thought the House were entering into it very improperly, either having nothing at all to do with it, or else taking wrong measures, if they had; he thought then, and was yet of opinion, that if the object was to impeach the President, measures ought to have been taken accordingly. He never did look upon the House of Representatives as having either the power to censure or to approbate the conduct of the Executive, and, therefore, he equally disapproved of the resolutions of the gentlemen from New York and Delaware; and, upon that ground, he felt strongly inclined to vote with the gentleman from Kentucky for giving the whole subject the go by, and getting clear of it by any possible means.

The motion being to discharge the Committee of the Whole from both questions, was giving an opinion upon neither the one nor the other; and, therefore, it could not be received as a censure, agreeably to the apprehensions of the gentleman from Virginia, (Mr. LEE.) Mr. C. believed the people of the United States were too wise and too

intelligent to form unjust conclusions upon the conduct of the House on this subject. They had the whole subject before them, they could judge, and they had a right to do it; but the House had not, except the avowed object was impeachment, which was not the case. The House had nothing to do with it, and therefore they ought not, in this unnecessary way, to spend time upon it.

Mr. HARPER agreed with the gentleman, that it would be folly for the House to spend time in useless discussion, which could lead to no decision; but, viewing this resolution as he did, he must conclude it of more importance; he thought it the direct road to an impeachment of the President of the United States, and, if so, surely it must appear important. The resolution declared, in express terms, that the Executive had exercised unconstitutional powers—one of the most dangerous crimes that he could commit. If he had so exercised his power, the inevitable consequence must be, that the President of the United States must be impeached by this House. Then, how could any gentleman say this was a trifling question, and one with which the House had nothing at all to do? Certainly no question can be more important.

If, as it respected the motion of the gentleman from Delaware, no motion had been made to criminate the Executive, he should not think it right to approbate his conduct; he should, in short, have been of an opinion that the House had nothing to do with it; but, it having been made, he should consider it very disrespectful not to express a sense of the propriety of the Executive conduct. He was willing, nay, desirous, of meeting the charge with all its terrors, and never would shrink from a decision on it. He presumed gentlemen had a meaning in what they did, and if they had any meaning, it must be that the House ought to proceed against the Executive. He did not think, however, from the total evidence which appeared, that there was one idea in the resolution but ought to be scouted with disdain from the House. He wished to have an opportunity of showing to the world that the House disdained to look with unconcern at a serious and unfounded charge upon the supreme Executive of the United States. He wished to give an opinion upon these charges, and treat them as they merited.

Mr. RUTLEDGE regretted that he could not join with his friend from Maryland, (Mr. CRAIK,) in thinking this consideration useless; he believed the attention of the people had been called to view this subject, and they were anxiously looking for a decision in some way. Neither did he think, with his honorable friend, that the House had nothing to do with it, because no impeachment could grow out of it. It was impossible to say what the gentleman meditated in his resolutions, but one thing was certain, if the gentleman had wished to promote an impeachment he could not have taken a more direct means for it, if the resolutions should be carried. He thought the friends of the Administration would act a very unfriendly part thereto, if they should agree to smother the business in this stage. The minds of the people had been

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raised to the highest pitch of expectation; they had been told, in certain public prints, that it loudly called for the interference of Congress; they had also been told, by an honorable member of the other House, that Congress ought to interfere. Attempts having been made to lead the public mind astray, and the House having proceeded so far on resolutions calculated to procure the object, it would be extremely wrong not to remove that disquiet by a suitable proceeding. It would not be useless to rescue the Executive from the very serious charges which had been thrown on him, and prove to the world that his actions had been consistent.

Mr. KITCHELL thought no good could arise from the investigation of this subject, because he did not know what was to be done in it, let the decision be what it might. The gentleman from South Carolina (Mr. HARPER) wished to have an opportunity of showing that every part of the resolution was built on false ground. Every gentleman in the House was not so fond of speaking nor of hearing as was that gentleman, and he hoped, merely on that account, that the House would not spend time on what (in his opinion) could not possibly lead to impeachment. What effect could a discussion have, but to show the world that there were *parties* in the House, and to raise a rancorous disposition? He did not know what there was in the resolution that could lead to an impeachment, nor did he know what the House, in their censorial capacity, had to do but to impeach. He believed it out of the power of the House to applaud. In short, he did not think they had anything to do with it.

Mr. NICHOLAS hoped the discussion would proceed. Although there might not be sufficient ground on which to impeach the Executive, he could not agree that, therefore, no inquiry ought to be made into his conduct; there might be an error in his conduct, and yet no impeachment be necessary to be raised out of it; and, if so, it would be extremely wrong to suffer it to go out to the world without a decision, after the subject had once been taken up by the House. Where there might be no bad intention or wicked design, the action might be of a dangerous tendency, and proper to be inquired into, in order to express an opinion thereupon. Mr. N. said he was well pleased that his opinion, that the motion ought to be negatived, accorded with that of the gentleman from South Carolina, because it would afford him an opportunity of showing what he said he could show.

Mr. BAYARD had no doubt of the competency of the House either to impeach, to censure, or to approbate the conduct of the Executive, and of course both the resolutions were in their power.

Several gentlemen had intimated that the authentic evidence and the whole of the documents were not before the House, and that the Executive Department was to blame for the deficiency. It appeared that the gentleman himself had forgotten the import of his resolution; it called for such documents as might be in possession of the Department of State. Now, what could possibly

be in possession of that Department? The President of the United States had his duties to perform, and the Judge of the district his duties; each had their separate documents; and, as neither interfered with the other, therefore, it could not be expected to be in the power of the President to furnish the papers belonging to the courts of South Carolina, any further than they came within the joint duties of both. Agreeably to treaty, the British Consul made a requisition for the person; a copy of this, and the several letters and instructions, were sent to the House, but it was not in the power of the Executive to order the Judge to furnish him with a record of the proceedings; he was not bound to furnish it if the President had called for it, and no doubt he had furnished the House with every paper in his possession.

The idea in the resolutions being to criminate the Judge as well as the Executive, Mr. B. thought he ought to have had an opportunity to furnish the papers of his department, and they ought to have been called for before his conduct was so deeply implicated.

Mr. ORIS said, when first the motion was made by the gentleman from Kentucky, he felt for a moment inclined to lean to it; the motives of that gentleman appeared to be so candid and liberal, that, for the moment, Mr. O. confessed, his feelings got the better of his reason. But a short reflection induced him to change an opinion thus hastily formed, and he felt satisfied that to vote with him, would be to display, in the conduct of gentlemen who wished to support the Administration of this country, worse than censure. He joined that gentleman in regret that it had gone so far, but certainly it was a subject of the most irritating nature possible: a charge the most serious; a breach of law by the Executive Magistrate, who is bound to support it and see it carried into effect. It is certainly a charge of much importance, and however disagreeable it might feel to him, Mr. O. said, he must vote that every argument should be used that could possibly tend to substantiate the charge, that nothing of truth might be hidden.

An insinuation was thrown out that the President had suppressed part of the information which ought to be had on this business. Lest this should take hold of the minds of gentlemen he would observe that the President, in his Message, says "I have directed the Secretary of State to lay before me copies of the papers intended, which I now transmit to Congress." If, therefore, there is any blame, it is not attached to the President, but to the Department of State: but it does not appear that the Secretary of State has any other papers in his possession than those the House are furnished with. This may be inferred from the readiness with which he furnished the papers he has given; he says he has no papers respecting any person of the name of Jonathan Robbins, "but by the proceedings before that Judge (Bee) it appears that a seaman named Thomas Nash, the subject of the British Minister's requisition," &c. He having therefore been asked for papers relative

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to Jonathan Robbins expressed his willingness by furnishing what he supposed was intended.

Mr. O. said he did not know to what points the evidence required by the gentleman from New York could apply, except it was to that of his being an American citizen, and of his being impressed. An affidavit was produced to prove these facts, but it would be found from an examination of the documents that nothing relating to those points was in the office of the Department of State; for the date of the affidavit of Robbins is the 25th of July, but the order of the Secretary of State, bears date the 5th of June, so that no papers as to his claim can be in the possession of that Department. Mr. O. thought the documents before the House contained everything that was important to the point.

Admitting the position gentlemen had taken to be true, which he positively denied, but admitting that the President had given an opinion upon a judicial question, it was only as respected the delivering up of the man, which was only in fact an Executive duty; but if the evidence should prove insufficient to support the charge exhibited against the Executive or Judge, he was certain that the gentleman from New York would rejoice as much as himself to find the charges unfounded, and the character of those gentlemen beyond blame.

Mr. CRAIK was sorry that gentlemen who advocated this motion should be charged with an opposition to the Administration of Government, he believed his conduct had heretofore evinced a different line of conduct. He still denied that the mode taken by the resolution could lead to impeachment. It certainly did contain a very great censure, and one which the House had no authority to inflict.

Gentlemen had supported their resolution upon the ground of the necessity of the various departments of the Government being kept distinct, but the very object of the resolution was a dereliction of that principle, since it exemplified an interference on the part of the House with a Judge of the United States, and with the Executive of the United States. When the House undertook to decide upon Executive or Judicial acts, and call their conduct into review, before them, not with a view to impeach but to give a severe censure, they certainly interfered with the separate powers of those departments, which in his opinion was setting a very dangerous precedent. He thought it ought not to be in the power of any member to lay such a resolution on the table, or, if it was laid there, that it ought not to be discussed, unless it was found to contain principles over which the House had power. It should not be in the power of any member to call the attention of the House to what could not have any good effect, but might have a very dangerous one. The power of impeachment by the Constitution was not a power to inflict punishment, it was only a power to investigate facts to be tried by another tribunal; the House were not to judge, they were only to charge, but by this proceeding they had taken upon them to consider of the propriety of punishing as well as charging;

for most assuredly to censure, to injure a man's character, must operate as a punishment.

Mr. GALLATIN considered the motion to be grounded on two ideas; that there was not sufficient foundation for the House to act upon, and therefore that it was necessary to discharge the committee, or postpone the subject for want of further evidence.

It is clear, said Mr. G., that the evidence is not sufficient to impeach the District Judge of South Carolina. If an impeachment of him was the object, it would be impossible to carry it forward without an authoritative copy of the record of the court; but if there was no intention to impeach, he did not think there was any material evidence wanted in order to decide upon the resolution, since it only meant an implication of censure upon the Executive and the District Judge, and not impeachment.

The only business being to consider of the propriety or impropriety of censuring or approving the conduct of the President and the Judge, all the material facts were before the House. If any censure was due to the President, it was on account of the opinion and advice he expressed by his letter to Judge Bee. This letter was before the House, and nothing more could be wanted to form the resolution upon; the fact was sufficient to form a decision upon. There could be but one thing wanting, and that was the original letter of the President to the Secretary of State, instructing him what to write to Judge Bee, and this could not be requisite if gentlemen would not say the letter of the Secretary perhaps did not contain the precise opinion of the President. If there should be such an objection, he should certainly wish the House to possess the document. However, he concluded that no such objection could be, since the Message of the President contained a full acknowledgment of every sentiment contained in that letter.

Mr. G. agreed there was at first sight some weight in the sentiment expressed by the gentleman from Maryland, (Mr. CRAIK,) that the House had only a power to impeach but not to censure; but certainly, when it was considered that an act might be committed without any ill motive, and yet the act be injurious, it could not be the subject of impeachment, but it might be of censure. The same act committed with a criminal motive would be impeachable, which without it would be of a nature not to admit of it.

Again: Mr. G. thought that though the House might have ground whereupon to censure, they ought not, at any time; but they had exercised that power. They had in a number of cases approved of the conduct of the President, and if the act of approbation had been done, they surely had as much power to disapprove and censure.

As to the irritation that was apprehended from a continuation of the discussion, that consideration would not induce him, Mr. G. said, to vote with the gentleman from Kentucky. If there was any irritation to be apprehended, it must come from those gentlemen who denominated themselves exclusive friends of the Administration;

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from those who presumed to arraign all the measures of their opponents, and who declared that they were disposed to support, not only that measure, but every measure of the Administration.

A number of very improper epithets had been thrown out as it respected the resolution, and certainly the distinction must be considered very narrow between those resolutions and the supporters of them; but it was too frequent for those great supporters of the Administration to use high tones, and if they choose to do so, let them. Mr. G. said he was not afraid of any injury accruing from the high ground they had assumed to themselves.

The question was then taken on the motion to discharge the Committee of the Whole from the further consideration, and negatived—yeas 14, nays 76, as follows:

YEAS.—Theodorus Bailey, John Condit, William Craik, Thomas T. Davis, George Dent, Joseph Dickson, Jonathan Freeman, Samuel Goode, William Barry Grove, Aaron Kitchell, James Linn, Nathaniel Macon, Thomas Pinckney, and Samuel Smith.

NAYS.—Willis Alston, George Baer, Bailey Bartlett, James A. Bayard, John Bird, Phaulon Bishop, Jonathan Brace, John Brown, Robert Brown, Samuel J. Cabell, Christopher G. Champlin, Gabriel Christie, Matthew Clay, William Cooper, Samuel W. Dana, Franklin Davenport, John Dawson, William Edmond, Joseph Eggleston, Lucas Elmendorf, Thomas Evans, Abiel Foster, Dwight Foster, John Fowler, Albert Gallatin, Henry Glen, Chauncey Goodrich, Elizur Goodrich, William Gordon, Edwin Gray, Andrew Gregg, Roger Griswold, John A. Hanna, Robert Goodloe Harper, Archibald Henderson, William H. Hill, David Holmes, James Jones, Henry Lee, Silas Lee, Michael Leib, Samuel Lyman, Matthew Lyon, Edward Livingston, John Marshall, Peter Muhlenberg, Anthony New, John Nicholas, John H. Nicholson, Abraham Nott, Harrison G. Otis, Robert Page, Leven Powell, John Randolph, John Reed, John Rutledge, jun., Samuel Sewall, James Sheafe, William Shepard, John Smilie, Richard Dobbs Spaight, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, George Thatcher, John Chew Thomas, Richard Thomas, Abram Trigg, John Trigg, Joseph B. Varnum, Peleg Wadsworth, Robert Waln, Robert Williams, Lemuel Williams, and Henry Woods.

INTERCOURSE WITH FRANCE.

A message was received from the Senate informing the House that they had agreed to the bill further to suspend the commercial intercourse with France, with sundry amendments.

The bill was taken up, when Mr. MACON moved that the consideration of the amendments be postponed until the first Monday in December next. He observed that this bill, in the shape it passed the Senate, was so fatal to the interests of the Southern States that, every opportunity he could meet with, his duty impelled him to take measures for its destruction.

The motion was negatived.

The first amendment proposed by the Senate was to strike out a permission granted in the bill to citizens of the United States now residing in the French Republic, to enter with vessels and property, bona fide theirs, into any port of the United States, previous to the first of October next.

After the question was stated and put to concur with this amendment, Mr. LIVINGSTON was perceived to be on the floor. The SPEAKER decided that he had risen too late to offer his sentiments; however, by universal concurrence, he proceeded to state some objections to the amendment, and was answered by Mr. ORIS, when the question for concurrence was put and carried—yeas 50, nays 36.

The second amendment was to strike out the tenth section, in the words following:

“In case the President of the United States shall deem it necessary to employ a Consul, or other agent, to repair to and reside at any place within the territories of the French Republic, or any of the dependencies thereof, with which he may deem it expedient, or may contemplate to renew a commercial intercourse, pursuant to the fifth section of this act, then such Consul or other agent shall and may be allowed an annual salary not exceeding \$3,000, and shall be prohibited and wholly restrained from engaging directly or indirectly in any commerce or traffic whatever, during his continuance in office.”

This question caused some debate, but it was at length carried that the section should be struck out.

The House then adjourned.

THURSDAY, February 27.

Another member, to wit: JOHN SMITH, from New York, appeared, produced his credentials, was qualified, and took his seat.

CASE OF JONATHAN ROBBINS.

Mr. DAVIS said, as the House had yesterday thought proper to negative a proposition to discharge the Committee of the Whole from the farther consideration of the business, and as one great motive for that motion was the incompetency of evidence before the House, and as he knew it was in the power of the House to procure that evidence by a proper application, he hoped gentlemen would now indulge him in the adoption of the following, which he moved, viz:

Resolved, That the President of the United States be requested to direct the proper officer to lay before this House a copy of the proceedings of the court held in the district of South Carolina, in the case of Thomas Nash, calling himself Jonathan Robbins.

Mr. BAYARD said, if he was persuaded, or if the gentleman could convince him that there was any particular evidence in the hands of any officer that would tend to throw such light as to give the least explanation to the case, he certainly would be willing to accord with the resolution; but he believed every necessary fact was before the House, and this had been acknowledged by several gentlemen. If the object was to prove that Nash was an American citizen, and that he was impressed, that could not be necessary as it respected the resolutions of the gentleman from New York, for that gentleman himself had acknowledged that he believed no such thing, but that the whole claim was falsehood. Would the gentleman, then, inform the House what point he

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wished to ascertain, or in what he expected additional proof? He wished information, farther, who was the "proper officer" to whom reference was expected to be made. There are but two officers at all in view, one is the Secretary of State, the other the District Judge of South Carolina; the gentleman could not suppose that the Judge would be able to transmit the records of that court previous to the adjournment of the House; and if it could be obtained, no evidence to the point could be expected from him. If, on the other hand, it was meant to call on the Secretary of State, it was not to be expected, from the nature of the case, that any more documents were in his hands than those already furnished; he had given copies of the correspondence and requisition, which it might be fairly inferred, from the nature of his office, was all of which he could be possessed. But if any gentleman doubted this fact, he could apply to the office of the Secretary of State, from whom he could procure whatever was in his possession.

If it was the intention of the House to close this very disagreeable business in the present session, they must negative the resolution and let the discussion go forward. The gentleman who brought forward the resolution ought to have been provided with every document that was necessary to support the charges, before he suffered them to appear. However, he did not think but the gentleman who proposed the resolutions thought his grounds were quite sufficient to support them.

Mr. S. SMITH, was in favor of the resolution. He considered himself as filling the character of judge of the case, and as such he was inclined to think, from the documents which were laid before the House, that there was other papers, which were not yet brought forward, relative to the judicial proceedings of South Carolina, that would have a considerable effect on his vote. He said there was a paper which he had seen published which ought, in his opinion, to be in the possession of the House; he meant that wherein Jonathan Robbins swore he was an American citizen, and as a proof of it produced before the court a notarial certificate of New York, the date of which went to corroborate the fact. He also swore he was impressed. If this certificate was before the House, gentlemen would be able to compare the date of it with the declaration made by Admiral Parker, and perhaps that comparison might produce conviction some way or other. These he thought very important, if it was desirous to prove the man an American citizen. This was certainly the duty of the Judge to ascertain, but it did not appear whether he paid attention to it, or not; however it was very presumable that he did not. Mr. S. declared he should be at a loss to go forward in the business without these papers, if he was to decide upon the whole truth.

Mr. NICHOLAS said he always believed that the testimony was incomplete, but when he heard a gentleman get up and mention particular testimony which he considered so important that without it he should not know how to vote, whatever Mr. N. said might have been his former satisfaction as to

the establishment of the points, he certainly must now be inclined to grant gentlemen every point of evidence that they should think necessary, if within the reach of the House.

One particular piece of testimony had been mentioned, viz: that the man had filed an affidavit that he was an American citizen and was impressed on board a British man-of-war. Could any gentleman pretend to say that no inference might be drawn from this source and the concomitant facts? The gentleman from New York, to be sure, had declared his satisfaction with the facts that had been produced to the House, but did the gentleman from Delaware know that this was the case with any other gentleman in the House? That gentleman's conclusions and impressions were not to be taken as the opinions of others, nor were others obliged to be satisfied because he was; and therefore to couple others in a measure to which they were not privy, and to ascribe opinions to them which they had not expressed, was at least unfair.

Some gentlemen might feel satisfied with what had come out since this unfortunate man's death, but that could be no rule for others. As to this part of the papers, Mr. N. could by no means understand or conceive for what they were collected and sent to the House—except, indeed, it was to quiet the minds of some gentlemen who thought that the measures of the Government were too precipitate, in their having judged the case without proof. That certificates should be collected respecting this man after his death, and when he could not possibly appear to contradict them, or to adduce contrary evidence, was an insult to the common understanding. Suppose this man had claimed to be an American citizen, and the Government had known it, he would ask gentlemen how they would justify an act done when no such evidence was known to exist as was now presented from Connecticut? What does it amount to, but that there is a chasm in this business which wants to be supplied? It might be supplied to the satisfaction of some gentlemen, Mr. N. said, but it was by no means so to his. Suppose, as was observed before, the certificates had proved the man to be an American, what could gentlemen have then said? From the present state of information, every gentleman must acknowledge it a matter of doubt, and being so, it ought to have been searched into; this doubt might probably be removed by a reference to the Judge; but the record of the court would prove another thing, and one which the gentleman who moved the resolutions expressed his intention to dwell much upon, that is, whether the Judge had caused him to be arrested, and intended him for trial in the Circuit Court of the United States; and whether the Judge had taken upon him to supersede, not his own jurisdiction, but that of the court over which he presided, in the delivery of this man to the British agent. For his part, Mr. N. said, he had no doubt of the jurisdiction of the United States upon this man's trial, and that it was a departure from justice to deliver him up to a foreign tribunal.

Upon a review of these reasons, he must conclude that more evidence ought to be had, if more

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evidence could enable the House to make a better investigation, and more was attainable; for, although the gentleman from New York thought the business ripe for discussion, he could not say it was, and therefore thought it his duty to vote for the motion.

Mr. OTIS said, he should not, for himself, have the smallest hesitation, if that resolution pointed to a particular object, or to a particular officer, who might be under the direction of the President, to agree to it. If the gentleman would modify his motion, so that the President of the United States might be requested to instruct the Secretary of State, to lay before the House those papers, he should not vote against it. But he thought it his duty to declare that the Secretary of State had received no further authentic or other transcript than he had furnished to the House, of the judicial proceedings on this subject. Mr. O. said he had received this information from the Secretary of State in answer to an inquiry of that officer, whether he had any such documents. But in the present form of the resolution he could not agree to it. If the motion was adopted, the question would be, who was the "proper officer?" Even if it was to be some officer under the direction of the President, the President had already furnished the House with every paper within his power. If the "proper officer" meant, was the Judge of South Carolina, Mr. O. would say, that the Executive could not with propriety furnish it, because it would be to all intents an interference with the Judiciary department. He did not think that the President had any right to demand the documents of that court. He thought the House were fully competent to send to that District Judge, ordering him to lay before them all the papers they should think necessary; but then the question would be, were the House ready to consent that the proceeding should be postponed until such an application should be made, or, in short, till the conclusion of the session? Besides, to ask for documents which would be made use of injuriously both to the Executive and to the Judge, was a measure which gentlemen who supported the resolutions of the gentleman from New York, could have no right to expect from gentlemen who could perceive nothing improper in their conduct.

If then it be true, of which Mr. O. thought there could be but little doubt, that the judicial proceedings of that court were never before the Executive, whether the Judge had done wrong or not, he, and he only, would have to answer, and not the President. The conduct of the President grew out of the proceedings of the court; where then could be the propriety or justice of hanging up the President in effigy, and there suspend him until the next session of Congress, subject to the thousand alarms, surmises, and reproaches of the people, which must carry with it the whole object of the censure? Every man might have had access to those papers; the Judge never would have refused any man a copy of all the proceedings that might tend to elucidate a subject which they may think was deficient without it. An

honorable gentleman had lately written a pamphlet on the subject; he might have procured the proceedings of that court, if he had thought them of any service, and so might the gentleman from New York. Should, then, the proceedings on this business be suspended merely for the want of evidence, which it was in the power of every gentleman to have brought forward? Gentlemen had, with very great deliberation, brought forward this accusation before the House. If it was in the power of every gentleman to refer to new evidence at every stage of the business, after the accusation was grounded only on the documents before the House, the evident effect must be to procrastinate beyond all bounds a business which the honor of our Government requires should be immediately decided. In justice therefore to the President, he conceived himself bound to vote against the resolution.

Mr. DANA thought this a most extraordinary resolution indeed. Was the President of the United States the clerk of the court, to keep the records of it? What had the President to do with the proceedings of that court? It was certainly a total departure from all the forms of judicial proceedings to suppose a thing of the kind. The gentlemen must certainly have mistaken the situation held by the President, or they would never have made such a vast departure from order and propriety of proceeding. The President is not the public accuser; he is not to be called upon for papers with which he has nothing to do. When he found gentlemen outraging everything that belonged to judicial propriety; when he found them stumbling into error after error, and departing totally from all jurisprudential propriety, Mr. D. said, he could not avoid rising to oppose it.

So much for the form; he believed it totally wrong, and therefore could not be adopted. But, in addition to this, the House would render themselves more ridiculous than they now appeared, by the adoption of measures which must make a matter appear important, that in itself was unimportant. Several gentlemen proceeded with the same zeal as though an American citizen was concerned. This was not the case; it was notorious to every man that this Nash was a foreigner; of this the House was fully apprized by respectable testimony. This man contended that he was born in Danbury, but the certificate of the clerk who kept the registers for a number of years back, to whom the annual list of all the births was transmitted, and by him registered, and also the certificates of a number of old residents in that town, had incontestably proved that this man was never an inhabitant of that town. He was an Irishman. Let any man from Ireland whatever declare that he is an American of Connecticut, in vain would he try to impose that opinion upon the mind of any person who observes his speech; it is entirely impossible to suppose that an intelligent court could be so imposed upon. The fact of country being incontestably proved, how can gentlemen be so earnest, in the face of that fact, to charge the Executive with any im-

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proper influence? Could the gentleman be ignorant how many men who were aliens had taken advantage of the certificates granted to Americans, and as Americans had procured certificates from a magistrate in attestation of their false oaths? Any gentleman who believed that possible might account for his having procured an American certificate.

Mr. LIVINGSTON said he did hope that this motion would not have been brought forward; but as he meant to vote in favor of it, after having declared his satisfaction with the documents, as sufficient to support his resolutions, he should be accused of advocating a question of which he had before spoken apparently differently, unless he should now give his reasons; and lest he should be accused of a desire to keep alive a calumny against the President of the United States, an effect which had been stated, he took opportunity to answer the insinuation by saying that he as much abhorred so mean a principle as any gentleman in the House.

Mr. L. said he would again declare that the evidence was sufficient to satisfy his mind upon the points he meant to establish, but that should not preclude other gentlemen from thinking other papers necessary—papers which he must acknowledge would throw an additional light on the subject. Though he thought the Message contained all the facts absolutely necessary to establish the points he proposed to dwell on, yet it certainly did not contain all that was asked for, and which it was in the power of the President to give; and yet, on the other hand, more was sent than was asked for, and what they had no right to send was given.

The resolution, Mr. L. said, asked for all the papers relative to the apprehension and delivery. A copy of the requisition and of the correspondence was furnished, but where are the other papers relative to the delivery of Jonathan Robbins? We are told that they are not in the office of the Secretary of State; the President must know where they can be procured, and he has it in his power to procure them; they may be in the hands of the District Judge of South Carolina. But the House are told the President cannot procure this record: gentlemen say he has no power over that department; and yet this very President has the power to instruct this very District Judge to deliver up the person to the British Government! How then can gentlemen presume to say the President has not power to call for the records of the court in a case in which himself has acted a principal part?

Again: it was said that neither the President nor the Judge had a right to deliver up papers that might lead to their crimination. This was the reason why the House should require papers that would explain any doubtful parts of their conduct; for this very reason the House ought to demand, not only the documents, but the reasons for their conduct. The President or the Judge can only be able to supply the House with those documents, and if they have done wrong they ought to be required to furnish them.

But gentlemen, supposing the main reason for inquiring is to ascertain whether Nash was an American or not, said that the inquiry to this point was extremely unimportant whether he was or was not. Upon that, Mr. L. said, he did not lay so much stress as some other gentlemen; he believed it was perfectly immaterial, because he believed that the course of the proceeding would be precisely the same whether he was or was not, and because it appeared that the conduct of the Executive and of the Judge would have been the same in either event. The same might be said as to the impressment. And therefore, though some trouble had been taken to prove that, in addition to the murder, he had been guilty of perjury—he being proved to the satisfaction of some gentlemen to be an Irishman—it was precisely the same in the case. However it had been, he should have been delivered up.

Gentlemen had farther said that he, Mr. L. ought to have known all these facts before he had formed the resolutions. Mr. L. said he did not think so; as he had before declared, he was possessed of satisfactory facts, but he could not prevent himself giving loose to the desires which other gentlemen had expressed, and therefore should now accord with them in the vote.

Mr. MARSHALL said, it was with no inconsiderable regret that he perceived so much of the time of the House, which ought to be devoted to more beneficial purposes, employed in preliminary discussion. He thought that it was impossible the House could agree to a postponement, which the motion under consideration must cause when it was reflected how much time must be employed in procuring those papers—it could not take less than a month; for they could only be found, he would presume to say, in the Court of the District of South Carolina: it was therefore scarcely to be expected that they could be obtained until just before the rising of the House, a period, if they arrived before the House rose, too late for their consideration.

He therefore considered the question precisely the same in principle, though different in form, to that which yesterday occupied the House. The question he believed essentially to be, would the House postpone the business till the next session? in this light he should treat it; and he could not see how gentlemen who voted against the motion yesterday could advocate the present. Shall the House, merely because two or three members think such documents are necessary, agree to postpone the business? for if two or three members be indulged on this account, two or three may lay claim to the same right on another account, and thus day after day may be spent and no determination ever be come to! It is a necessary case in every House, and upon every question; there always will be some few found who will express dissatisfaction at proceedings, and claim some privilege, but this can never operate as a general rule for a session. Gentlemen ought not to request this when the general expression of the case is, that there is enough evidence before the House to decide on the resolutions. And most particularly

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it ought not to be indulged in a case where so much manifest mischief would attend its inevitable consequence, delay. Let gentlemen recollect the nature of the case: the President of the United States is charged by this House with having violated the Constitution and laws of his country, by having committed an act of dangerous interference with a judicial decision—he is so charged by a member of this House. Gentlemen were well aware how much the public safety and happiness depended on a well or a misplaced confidence in the Executive. Was it reasonable or right, Mr. M. asked, to receive this charge—to receive in part the evidence in support of it—to receive so much evidence as almost every gentleman declared himself satisfied with, and to leave the charge unexamined, hanging over the head of the President of the United States, until a distance of time, how long it was impossible to say, but certainly long enough to work a very bad effect? To him it seemed of all things the most unreasonable and unjust; and the mischief resulting therefrom must be very great indeed.

When the evidence, now in possession of the House, came to be examined, gentlemen would be much better able to decide whether more would be necessary, than they possibly could be at present; if more should then be wanted, the business might with propriety be postponed. If it was possible to obtain the documents shortly, he should have no hesitation to admit of the motion, but, being impossible, he felt no hesitation in declaring he should put his negative on it.

The gentleman from New York, (Mr. LIVINGSTON,) Mr. M. said, in his opinion, had criminated the conduct of the Secretary of State, in supposing that he had withheld some of the documents. The court record was mentioned—but was it to be supposed by the Executive that he was to be called upon to furnish papers the property of another department of the Government, supposing them material? To procure these papers, he knew was as much in the power of the House as in his power. The House could as well despatch a messenger as the Executive could. How was the President, then, to consider those papers asked for of him? Was he to be a *menial* to the House in a business wherein himself was seriously charged? Certainly not. There could be no doubt but the Executive thought he had fully complied with the request of the House, when he supplied them with those immediately in his power.

Mr. BAYARD said he could not distinguish between the present motion and one yesterday negatived, because it must operate as a discharge upon the Committee of the whole House. There could be no doubt but the Secretary of State had furnished all the papers relative to the business in his possession—indeed, he could assuredly say so. He said he held in his hand a letter from the Secretary of State, in answer to one from an honorable member of the House inquiring whether there were any more documents in his office; he answered that he had no certified copy whatever but those which he had furnished the President with, from whom they came to the House. Gentlemen

must then perceive that the mere operation of this resolution was an absolute and inevitable postponement of the business till another session. Many gentlemen, who were yesterday ashamed to vote for a postponement, would now have a plausible cover for their vote by calling for additional proof, to accomplish the object of the resolution of yesterday; and thus he feared it would have many advocates, but, however specious the pretext, he hoped it would not be carried.

Mr. B. then went into an examination of the facts contained in the resolutions of Mr. LIVINGSTON, from which he deduced the impossibility of procuring anything that could be material in the prosecution of their discussion, or that could assist the House in drawing their conclusions, except any new facts could be produced, and, therefore, he concluded that nothing but a postponement could be the issue. He farther contended, in answer to Mr. NICHOLAS, that it was not competent for the Executive to furnish papers the property of the District Judge; as well might the House ask for the Executive to bring the proceedings on again at their bar. In the impeachment of Blount, Mr. B. said, the House did not apply to the President, but appointed a committee to bring the case and all the papers relative to it to view; so it might have been in the present case.

And by what authority, taking the subject in another view, could the House call upon that Judge to furnish it with papers? The Executive had no right to demand them of him, nor had the House. The power of the Judiciary is co-ordinate with the power of this House; it is a distinct branch of the Government. He would have precisely the same right to call authoritatively for a copy of the Journals of this House, as the House would to call upon him for copies of his record; his proceedings are public, his records are open to view, so are our Journals; we cannot call upon him for them, though we may obtain them by paying the clerk for a copy of them, as any individual might do.

The gentleman from Maryland (Mr. SMITH) had considered the notarial certificate of New York, in attestation of Nash's or Robbins's citizenship, to be important. If that gentleman thought this a material document, Mr. B. said he did not; but he thought the observation very material, as it might make an improper impression on the minds of some gentlemen. What could be more easy than for this Thomas Nash, this perjured pirate and murderer, to have got a certificate, when he murdered some man, or he might have procured it by purchase or favor. But there were facts before the House that this man was an Irishman, that his name was Nash and not Robbins; that it was never issued to him, and that he was never entitled to it. What farther then can be wanted? Will not this satisfy gentlemen? The next thing, if this objection be admitted, we shall be called upon to send to the West Indies to prove the fact that his name was Nash!

Mr. B. said he was well satisfied that when this subject came to be analyzed, it would be made to appear perfectly clear that the whole of the evi-

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dence necessary was before the House, and it would only be mispending time and producing extremely injurious consequences to grant the motion.

Mr. RUTLEDGE conceived this motion to be the same as to postpone the business. Further information was wanted, and that information could alone come from South Carolina. He wished the gentleman from Kentucky would read the resolution before he pressed his motion: he would find that the District Judge was not charged; no, it was only a charge against the Executive; there was not a word of irregularity of proceeding in the Court, but the Executive was seriously charged.

Mr. DAVIS explained. He said his objects were to have the record in order to see whether Robbins did produce a certificate that he was an American citizen; to see a copy of the warrant by which he was committed; and thirdly, to know what stratagem or what proceedings were used to take him out of the cognizance of the Court, where he must have remained, if the President had not interfered. These things he wished to ascertain, but that would be impossible without the court record.

Mr. RUTLEDGE said, he conceived this to be the object, but he by no means thought that the gentleman would be satisfied on these points, were he to be possessed of the record. The gentleman might inquire the reasons for the Executive and Judicial conduct being as it was, but perhaps he would not receive the information. Every gentleman in the House would unite their vote to procure all the testimony within their reach, so as to enable the House to prosecute the business. We know, said Mr. R., what monstrous clamor has been raised about this business; we know that great pains have been taken to make the people believe that their fellow-citizen has been torn from his country; that he has been impressed into a foreign service; that the treaty has been violated; that their fellow-citizen has been taken to a foreign country, and there been tried in a summary manner and executed. We have been told for months past that this business would be inquired into; we wish not to avoid it; we will by all means in our power assist it; we have done it. Some time since papers were asked for, we agreed with gentlemen that they should be furnished; it was done, and they are now on your table. They have been there many days; so that gentlemen had sufficient time, long before this, to have known whether they were satisfied or not. The gentleman himself who brought forward the resolutions affected to be satisfied, but, in compliance with the wish of his friends, he now wishes to postpone it. We want to bring the matter to a decision, and so far as we can accommodate gentlemen and avoid delay we will do it.

But, said Mr. R., what will be the effect of this motion? Sir, it will hold up to the view of the world the President of the United States, as having been grossly delinquent in his duty. We say, if he has offended, punish him; if he has not, discharge him from censure; but by no means expose him to popular suspicion, without an examination.

What more can be wanted than the House are

in possession of? The Secretary of State says he has no further documents; and he cannot be suspected of any design to smother the business, by the readiness with which the call of the House was complied with. He might have said he would send to the district of South Carolina, but instead of that, so earnest was he to give every possible information, that he trusted to newspaper publications, and this he tells you is all he has. What more can be asked? After a discussion, if the evidence should be found insufficient, and more light was necessary on which to form a decision, Mr. R. then would agree to send anywhere for evidence; but until he was convinced of a want of such testimony, except the will of gentlemen could be complied with without delay, he should be compelled to vote against the motion.

Mr. NICHOLSON rose to correct what he considered a mistake in the gentleman last up, (Mr. RUTLEDGE,) when he said that the Executive only was implicated in the resolutions; he conceived that the District Judge of South Carolina was implicated, and that the papers of that court were necessary to examine the conduct of that Judge. He read the resolution, and contended that his deduction was accurate. Mr. N. said he wanted to know whether the District Judge of South Carolina had committed this man for trial; this would appear or be disproved by the warrant.

Mr. N. said, he could not believe the position laid down by a gentleman, (Mr. DANA,) that it was utterly impossible that Jonathan Robbins should have been a citizen of the United States. It was worthy of notice that the notarial certificate, which the unfortunate man produced in court, was dated 1795; the opposite authority, to wit, a copy of the books of the *Hermione*, appeared to state that Thomas Nash was transferred to that ship in 1792. He wanted to know, authoritatively, whether this certificate was produced to the court, for, if it was produced, it certainly went to prove that the copy of the books of the *Hermione* was erroneous, because, if this man was in New York in 1795, he could not have been on board British frigate in 1792, and have continued there until the time of the mutiny.

That the President of the United States was not to be considered as the servant of that House, he was willing to admit, but he did think that the President might, with propriety, apply to the Judge of the district for the documents of the court; and he did not believe that the President would object to make the application. However, the object he presumed was to procure the papers, no matter from whom; that being the object, he hoped the mover of the resolution would withdraw it, in order to accommodate it more to the feelings of some members in the House, by adopting something like the following:

Resolved, That the Speaker of the House of Representatives be requested to procure, from the Clerk of the District Court of South Carolina, copies, under seal, of the proceedings of that court, together with the evidence produced in the case relative to the requisition for Thomas Nash, alias Jonathan Robbins, who was delivered to His Britannic Majesty's Consul.

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Mr. DAVIS withdrew his resolution, and Mr. NICHOLAS moved the substitute, which was now before the House.

Mr. HARPER moved a postponement of this resolution to this day week. The object of the resolution which was before the Committee of the Whole was two-fold—a charge on the President, and a charge on the District Judge. So much as related to the President of the United States, it was manifest that the testimony called for by this resolution could have no effect whatever upon him, because he left the whole to the Judge. The President went no further than to declare that if it should appear that the acts committed by this man came within the purview of the British Treaty, the man ought to be delivered up conformably to that stipulation.

It must be manifest that the testimony to be expected from South Carolina could have no possible effect on the part relating to the President, and, therefore, the House could proceed with that part of the resolution; but whether the Judge, in executing the duty belonging to him, acted with propriety or not, might be more clear from the documents of that court. When the Judge entered into the consideration of this subject, what questions were open to him? The principle was, whether the man was guilty of the piracy and murder charged to him or not; if this was proved, no further question could arise as to the propriety of delivering him up conformably to the requisition.

The consequence of these papers being called for, had been stated to be much delay; it would operate so. Was it not an established principle, Mr. H. asked, that a delay of justice amounted to a denial of justice. If you suffer this charge to hang over the head of your President for eight months, to no purpose, you inflict a severe punishment. A charge is here exhibited against the First Magistrate of the Union, which must be considered as the commencement of an impeachment; for, if gentlemen have any propriety of conduct, this must operate as a foundation to impeachment. This is to keep alive the idea of guilt—to hang up suspicion, as a party weapon, over the head of the Executive, until an opportunity shall offer to make use of it on a great approaching occasion; this, he thought was the main intention of the motion, and this consequence was inevitable. He believed the motion now before the House to be the same in principle as one yesterday negatived; it was an effort to shrink from a charge, the object of which could better be answered by delay than examination.

Mr. NICHOLAS thought, with the gentleman last up, that if the only inquiry was as to the conduct of the President, or if the inquiry was only to respect the Judge, the papers might be dispensed with; but it was otherwise—the conduct of both was called forth to view by the resolutions, but how far the conduct of either may be reprehensible, depended on the testimony which might appear before the House. It was impossible to say what the President had done until the documents should be seen. If gentlemen refused the inquiry

being made of the court in South Carolina, they, by that act, made the President answerable for every part of the facts, which he believed they would not pretend to do. He really believed it extremely important to know what steps had been taken in this very serious business, to know whether the man was in course for trial, and whether the President had acted in the hasty and premature manner which was stated, in delivering him up.

Mr. N. then proceeded to prove that the warrant was important to be seen, because the intent for which the apprehension was made, was explicitly incumbent on the Judge to record, together with the court where he was to be tried, agreeably to the provisions of the Judiciary act, and, therefore, this information could be attained by recurring to that record. A gentleman had thought the information could not be obtained from persons whom probably that information may criminate. But were the House to decide upon information short of truth, because the result may lead to crimination? That is, they are to be acquitted without materials whereupon to acquit. As to the objection of gentlemen on account of the time it would take to procure the testimony, which they suppose would be so late that the case could not be acted upon during the present session, he believed it was not accurate. Mr. N. declared that it was far from his desire to postpone the subject; he wished it to go forward without delay, but not without all the facts before the House which were necessary.

The House were told by a gentleman (Mr. MARSHALL) that it would be extremely improper to indulge a few gentlemen in their objections. Was the gentleman confident that there would be a majority of his opinion? A few, it must be remembered, could make a decision, and, if so, the result of the opinion of those few might guide the question. Much had been said about the introduction of the motion, and the motives ascribed to the supporters of it, as though it was a planned object. Mr. N. denied having the least knowledge of it till the motion was made, and, with respect to him, it could not be thought an attempt to carry into effect the motion yesterday made for postponement, because he yesterday voted against that motion, and by no means could agree to postpone, but for an object which he now thought material—when the object was to obtain important information; and believing, as he did, that it would not put off the decision beyond the power of the present session, he should consider himself justified in voting for the motion.

Mr. GALLATIN could not help observing the disposition which gentlemen evinced of placing the opinions and sensations expressed by one gentleman to the account of others. To take a fair view of the resolutions, what did they amount to? Nothing more than the deductions which one man had drawn from the Message sent to this House by the Executive: these deductions, in the form of a resolution, he had submitted to the consideration of the Committee of the Whole. Now, except it could be proved that that gentleman had made all

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the deductions of and acted for every gentleman, there could be no ground for saying that every gentleman would be satisfied, without the evidence which might be collected from the records of the District Court of South Carolina. Was any gentleman in the House bound to be satisfied, with the gentleman from New York, that all the facts necessary to be known were furnished? Was every gentleman in the House bound to confine himself solely to the resolutions before the House? Certainly not. It could not be denied that the evidence now required was essential to a full investigation of the conduct of the Judge, who was the principal agent of the Executive in this case.

He did not consider the question to be whether the resolution of the gentleman from New York required that evidence or not to support them, but whether, to come to a knowledge of the truth and the whole truth relative to the circumstance, it was not necessary. Although, Mr. G. observed, he could not at present perceive how far it was likely those documents might assist the decision of the House, yet he thought them proper to come before the House; it was very probable they would tend either to criminate more, or to extenuate, and perhaps to justify.

With respect to the objection, on the ground of postponement, Mr. G. would observe that the motion of the gentleman from South Carolina proved that this was not the proper time to proceed in the discussion; the motion implied that gentleman's acknowledgment of it, or he would rather have at once rejected the motion than moved its postponement for a week; he therefore presumed that gentleman saw the additional testimony necessary.

[Mr. HARPER explained his statement to be that the testimony to be expected, nor the postponement, could have any possible bearing on the part relating to the President, and therefore that ought to be decided; but, as far as related to the Judge, evidence might be necessary.]

Taking this to be the mind of the gentleman, Mr. G. said, he did not know in what manner he could apply his argument to the motion. For himself, he was ready to vote on the resolutions without more documents, but as other gentlemen were not, he should vote without them. He confessed he was the more earnest to do this, because, on the very threshold of the business, the gentleman was stopped while reading a paper he thought useful to bring forward. Gentlemen had now gotten up and declared themselves compelled to call for evidence which might substantiate a fact contained in that paper, which, though known to be true, was not stamped with that legal credit that was necessary. Let gentlemen then come forward at once and give this fact its legal importance, or prove its non-existence.

Another fact stated, was, that the President had undertaken to discharge the man when the court had already assumed jurisdiction of the case. This it was possible to prove or disprove by the record of the court. That this record, agreeably to law, was to contain the name of the court before which the case was triable, and process upon which the man was arrested, he quoted the Judiciary act,

Laws U. S., vol. 1, pages 72, 73. He was, however, well satisfied, from the letter of the Judge and the nature of the case, that this man was committed for trial before a court of the United States, and what corroborated the opinion was that no power was given by our laws to hold a man in prison on any other ground. On the whole, Mr. G. said, as one fact had been and others might be contended, if produced, it would perhaps be the most expeditious, as it certainly would be the most satisfactory, method, to procure every fact authentically attested, before the proceeding was had.

Mr. H. LEE hoped that the gentleman from South Carolina would withdraw his motion. He would mention some reasons which would induce him to vote differently from gentlemen with whom he usually had the honor to vote. Considering this a question of very great importance, not only to the American people, and to the reputation of the House, but also to the highly respectable character presiding over our Government, he trusted the House would, in its whole process, be led by principles so fair and candid, as not to leave the least room for a charge of derogation from its own dignity or of the great subject it was discussing.

He would vote for the motion calling for the papers, but he would do it with an expectation that it would not postpone the discussion of the business so far as related to the conduct of the President of the United States. It appeared that the conduct of the President, as charged, was fully before the House; there could be no difficulty therefore to proceed on it; but, as far as respected the Judge, Mr. L. trusted the record of the court would be sent, for he thought it but fair to gratify gentlemen who considered there was any material evidence wanting.

If the view of the gentleman was to postpone the whole of this business, until a return from South Carolina, he would ask the gentleman from New York and his friends, whether they could wish any means to be adopted more completely to effect the object of the resolutions than postponement? Was I the high character, said Mr. L., to whom this resolution refers, I would infinitely rather have the disapprobation of this House to the full extent which the censure goes, than to have the subject postponed, and be exposed to the conclusions and surmises of the world. I will not attribute the motives to gentlemen which the gentleman from South Carolina has expressed; I cannot think the member from New York wishes to suspend the decision of this House until that high character shall be before that tribunal which is to estimate his merits or demerits—for knowing that no baser motives can be cherished, I will not even suspect it of him; but, whatever may be the motives which may induce a postponement, it cannot fail of having that effect. He therefore wished to proceed as it respected the President.

Mr. DANA acknowledged his very high estimate of the opinion of the gentleman last up, but he could not agree with him at present. He did not think it would consist with general justice to delay the case for the time contemplated by the resolution. He well knew that if the inquiry was not

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made, gentlemen would talk about liberality and about motives; but that he should little regard, being assured that his conduct would be guided by the strictest rules of legal propriety and justice. Mr. D. admitted that much propriety marked the conduct of the gentleman from Maryland, (Mr. NICHOLSON.) That gentleman well knew that the Executive ought not to be called upon, and that the Speaker of the House was the true medium by which evidence could be obtained for that House. But, as the argument was in favor of a complete investigation of the subject, Mr. D. could not help calling to the recollection of gentlemen a motion (which was negatived) to put this previous examination into the hands of a select committee; but, for want of that very necessary measure, gentlemen now found themselves in a disagreeable situation for having accused these officers. They could not prosecute their accusation as they wished, and therefore they would feign make further inquiry. He objected further to it, because it was unnecessary; he did not believe the least good could spring from it. But it was extremely unreasonable, and highly unbecoming the dignified character of *grand inquisitors general*, because there was no proof to make the charge appear, that they should suspend the business while gentlemen sought for proof which they ought to have known when the resolutions were proposed. They ought by no means to have been brought upon slight grounds. Did the gentleman not know that public officers possessed reputation, and that the preservation of that reputation was essential to preserve public confidence in them? He would not stretch a man on the bed of torture, for time unknown, while he searched for proof of a supposed crime. Sir, said Mr. D., by this treatment you chain your public officers to a rock for this spirit of *patriotism*, like a vulture, to prey on their hearts. This is conduct I abhor, and therefore cannot, for my part, indulge in it.

Sir, they have brought this charge; we are willing to meet it; we are willing to give full weight to it. We are not disposed to vindicate the Executive, nor any other public officer, if doing wrong; but it is because we respect honest men, in public stations, that we are prepared to hear what the tongue of accusation can produce. We are unwilling to leave them exposed to calumny, (as they must be, if unheard and unjustified,) except it be by clamor which a suspicion must inevitably raise.

Mr. VARNUM would vote for the resolution proposed; he thought it was doubtful whether the President had acted with propriety or not; but he believed if there had been any incidental impropriety of conduct, it was never done with an evil design, nor with a view to interfere with any other department of the Government; but certainly to deny this evidence, which several gentlemen had stated to be necessary to assist them in making up their minds, would stamp a censure on the conduct of those officers as great as that contained in the resolution. He thought the gentleman from New York had a right to bring the subject to the view of the House. If he saw any proceeding which to him appeared dangerous, it was his duty

to commence an investigation. No man ought to flinch from what he thought right. The only way to give public satisfaction, in a matter that had so much engaged public attention, was to give all the evidence which could be procured, and let the matter be investigated to the bottom; and, most assuredly, the only way effectually to clear the characters implicated, if they were innocent, was to leave no doubt as to the desire of the House to scrutinize their conduct. But, certainly, the very great reluctance which gentlemen showed to procure all the evidence, and, after all, their denial of it, must leave a suspicion bordering much on guilt.

Mr. BAYARD rose, in answer to Mr. GALLATIN and others, and observed, that, with respect to Nash calling himself an American citizen before that court, (an object which it was desired to prove by this call for evidence,) they were asked to admit the fact. Mr. B. asked, would those gentlemen admit that Nash was guilty of the dreadful murders committed on board the British frigate? Would they admit that he falsely made the claim? However, he had no disposition to rest on that point. Another fact, however, which it was required to admit was as to the jurisdiction of the court of the United States upon the case. Mr. B. denied this, and repeated the former arguments in proof of his opinion. He insisted that the whole arrest and proceeding was had at the instance of the British Consul and Minister, in proof of which he quoted their letters. The record, he said, could not possibly dispense any light to this fact; the record would only give the warrant and some of the depositions first taken before the Judge; but as to the court being designated where the case was to be tried, he contended that it was not usual to insert it in the warrant—he never saw one so drawn. It was possible that Nash was committed with a view to be delivered up to the British, before the letter was received by the Judge from the President; and it was very reasonable that the whole previous business was at the instigation of the British agent, but it was impossible to prove that jurisdiction had attached before the letter directing the delivery to be made was received.

Mr. JONES said, that finding himself, from the vote he was about to give, implicated in the charge made by the gentleman from Delaware, (Mr. BAYARD,) that gentlemen who were yesterday ashamed to vote for the proposition to discharge the Committee from further consideration of the subject, in general and express terms, because it would imply a distrust of the sufficiency of the ground on which to support the principles of the resolutions, were now disposed to effect the same object by a decision which would, in fact, go to evade the question during the present session, he felt himself impelled, by a respect for his own conduct, to explain the motives which would govern his vote on the present question. He considered the case which had been called into view by the proposition of the gentleman from New York, (Mr. LIVINGSTON,) as one that involved in it the dearest interests and deepest concerns of the people of the United States. The gentleman from Delaware (Mr. BAYARD) and the gentleman from Connecticut (Mr. DANA) had

indulged themselves in the most violent invectives and unnecessary abuse against the unfortunate, the obscure, and insignificant character, now dead, who was the subject of this proposition. On this topic they had exercised all their powers of passionate declamation. If this was a grateful theme for the employment of their talents, he did not envy them the enjoyment of it. How that kind of argument would apply to the question, he left to the House to determine.

For his part Mr. J. said, he deemed it totally immaterial whether the man was, as they had declared, an Irishman or not; whether he was a Turk, a Hottentot, or a native-born American, if he claimed to be an American citizen, and produced a certificate in due form, under the signature of a proper officer, of his citizenship, and that claim was slighted by the Judge, or declared immaterial, and the fact not inquired into of his being a citizen, then he conceived the safety of the citizens of America, to be equally put in jeopardy, as if the man had been born and raised in Charleston, in the circle of the Judge's own acquaintance. If, he asked, a dagger aimed at my breast by an assassin in the dark, should by mistake or impetuosity pierce the bosom of another, would not the discovery of such an attempt awaken alarm, and demand a precaution for my future safety? Certainly it would. So in this case, if this man claimed to be a citizen and wore about him the legal voucher of that claim, and if he was told in the presence of American citizens, "it is of no importance whether you are, or are not a citizen, that is a point of no concern in the case," notwithstanding it may afterwards be found he was no citizen, yet would it equally involve the safety of every true citizen who might fall into similar circumstances. We may congratulate ourselves that it has not fallen on a fellow-citizen, but we ought still to improve the lesson this case has presented. Mr. J. hoped that it would be improved, and that, at least, legislative provisions would be made to prevent this decision from operating on a citizen, if such a case should occur in future. This man was a citizen to all intents and purposes, so far as respects the precedent, if he claimed that right and produced a voucher to testify it, and was entitled to all the privileges of a citizen until his claim and certificate had been formally proven to be false. Mr. J. said, to ascertain with certainty whether this claim was put in, and how it was treated, it certainly was necessary to procure authentic copies of the record and proceedings in the case, from the court, and every ray of evidence that could be obtained; nothing could be more essential in deciding on the conduct of the Judge than to have an authentic account of the proceedings. Gentlemen seemed extremely anxious to have the question decided early, on account of the censure hanging over the Executive by continuing the business on the table. It is true, said Mr. J., the papers now called for were not necessary to determine on that part of the resolution which charges the Executive with interfering with the Judiciary; on this point no further evidence was wanted, that was an abstract question

and might be so decided; but there was a probability that the evidence to be obtained from the courts in Charleston might be material as to another charge or implication against the President. If it should by any means be proved, that the President was informed of, or knew the man had claimed to be a citizen, then he was surely as much to blame in not making the distinction as the Judge; it was possible this might appear from some of the proceedings or papers before the court.

Gentlemen were sensibly affected for the President's feelings in this case, and if he is blameless this tenderness was proper, but for his part he considered the case of the Judge as equally and more delicate than that of the President. The situation of a Judge, determining on the life of his fellow creature, was, he thought, the most important and responsible duty mankind could impose on any one; of course to censure a Judge for any decision that could affect life, was a severe infliction, and in doing it every possible proof and sight ought to be had. It was said that by the delay which this vote would cause, if carried, the President would be hung up in odious effigy to the people at large. Mr. J. said he could not conceive how a disposition of the House to receive every light, and go into as ample an investigation as possible, would have that effect; he believed a contrary conduct would be more likely to render the conduct of the President suspicious and censurable. What effect would a mere vote of approbation have in this case, after refusing to permit testimony to be brought forward which was thought material? It would seem as if the friends of the Executive were afraid to let the matter be clearly sifted, and wished to avoid everything that could throw light on the subject. What value ought to be put on applause obtained in such a way? He believed the President would disdain the approbation of the House on such terms; to make his exculpation grateful to himself and satisfactory to the nation, nothing ought to be suppressed, everything should be produced that related to the subject.

The gentleman from Connecticut, (Mr. DANA,) who is always so tenderly concerned for the character and dignity of this House, and so frequently complains of other gentlemen committing that dignity and respect by their conduct and opinions, has, on all occasions, when he has addressed the House, in his style and manner, manifested the most unlimited confidence in the talents and penetration of *one* member of the House; but what kind of respect he had discovered for every other gentleman in it, he appealed to the observation of gentlemen generally to determine.

Some gentlemen had indulged themselves in attributing to the mover and friends of this proposition, unworthy motives; he had on many occasions observed that those gentlemen were partial to that kind of debate; he could not see the use or advantage of such conduct; he thought it very unbecoming any gentleman in this body. There was, however, one motive which these gentlemen had not attributed to him or those with whom he usually acted in the House, they could not insin-

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uate nor pretend that their conduct was designed to throw themselves within the benign beams of Executive patronage. Mr. J. said he would not so far conform to a practice which he condemned as to designate what gentlemen would bear an insinuation of that kind, it was not necessary to point them out. He could perceive no other object which could induce gentlemen to declaim so frequently and earnestly on those unpleasant topics.

The question was then taken on the motion of Mr. HARPER, to postpone the consideration of the motion of Mr. NICHOLSON, for a call of the record of the District Court of South Carolina, for one week, and negatived—yeas, 32 nays 63, as follows:

YEAS—Bailey Bartlett, James A. Bayard, John Bird, John Brown, Samuel J. Cabell, Christopher G. Champlin, William Cooper, Franklin Davenport, John Dennis, Thomas Evans, Chauncey Goodrich, Elizur Goodrich, William Gordon, Roger Griswold, Robert Goodloe Harper, Archibald Henderson, William H. Hill, Samuel Lyman, John Marshall, Harrison G. Otis, Robert Page, Thomas Pinckney, Leven Powell, John Reed, John Rutledge, jr., Samuel Sewall, James Sheafe, William Shepard, George Thatcher, John Chew Thomas, Peleg Wadsworth, and Lemuel Williams.

NAYS—Willis Alston, George Baer, Theodorus Bailey, Phanuel Bishop, Jonathan Brace, Robert Brown, Matthew Clay, John Condit, William Craik, Samuel W. Dana, Thomas T. Davis, John Dawson, George Dent, Joseph Dickson, William Edmond, Joseph Eggleston, Lucas Elmendorf, Abiel Foster, Dwight Foster, John Fowler, Jonathan Freeman, Albert Gallatin, Henry Glen, Samuel Goode, Edwin Gray, Andrew Gregg, William Barry Grove, John A. Hanna, David Holmes, Benjamin Huger, George Jackson, James Jones, Aaron Kitchell, Henry Lee, Silas Lee, Michael Leib, Matthew Lyon, James Linn, Edward Livingston, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, Abraham Nott, Josiah Parker, John Randolph, John Smilie, John Smith, Samuel Smith, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, Richard Thomas, John Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Robert Waln, Robert Williams, and Henry Woods.

The question then recurred upon adopting the resolutions.

Mr. MARSHALL spoke at length against it. He contended there was no prospect of coming to a decision of the original question this session, if this were adopted; and asked if the character of the President of the United States ought to be held up in the suspicious view in which the resolution placed it, until the next session of Congress? He hoped not. It seemed to him that a postponement amounted to a declaration to the people of America that there was much cause for suspicion, and that additional evidences were wanted to substantiate it.

Mr. NICHOLAS replied to Mr. M., and contended that the whole truth of the case was to come out of the additional testimony now asked for.

An adjournment was then called for, and negatived—yeas 30.

Mr. RANDOLPH spoke in favor of the resolution, and in answer to Mr. MARSHALL.

The question was then taken that the House do
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agree to the motion first proposed, and passed in the negative—yeas 44, nays 57, as follows:

YEAS—Willis Alston, Theodorus Bailey, Phanuel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, John Condit, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Gallatin, Samuel Goode, Andrew Gregg, John A. Hanna, David Holmes, George Jackson, James Jones, Aaron Kitchell, Henry Lee, Michael Leib, Matthew Lyon, Edward Livingston, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, John Randolph, John Smilie, John Smith, Samuel Smith, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

NAYS—George Baer, Bailey Bartlett, James A. Bayard, John Bird, Jonathan Brace, John Brown, Christopher G. Champlin, William Cooper, William Craik, Samuel W. Dana, Franklin Davenport, John Dennis, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, William Gordon, Edwin Gray, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Archibald Henderson, William H. Hill, Benjamin Huger, Silas Lee, Samuel Lyman, James Linn, John Marshall, Abraham Nott, Harrison G. Otis, Robert Page, Josiah Parker, Thomas Pinckney, Leven Powell, John Reed, John Rutledge, jr., Samuel Sewall, James Sheafe, William Shepard, George Thatcher, John C. Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

And then the House adjourned.

FRIDAY, February 28.

Mr. HARPER moved a postponement of the order of the day on the business of Jonathan Robbins, until Monday. He did not conceive much progress would be made this day, and as there was much private business on hand it could not be gone through with. If the business be taken up on Monday it can be regularly gone through with without intermission.

The motion was agreed to.

The House resolved itself into a Committee on the report of the Committee of Claims on the petition of Campbell Smith, which was, that he should receive allowance as Advocate General and Judge Marshal while filling those capacities in the Western Army. The resolution to that effect was agreed to, and the Committee of Claims directed to report a bill accordingly.

Mr. WALN presented a memorial from the Health Office in Philadelphia, stating that, in consequence of the plague having raged in Morocco, Great Britain had enacted very strict quarantine laws, but although the port of Philadelphia might be watched by all the vigilance in the power of the Health Office, there was no general law to keep that most dreadful scourge of the human race from being introduced into some ports of the United States. They prayed the attention of Congress thereto.

Referred to the Committee of Commerce.

ADMISSION OF STRANGERS.

The subject of the admission of strangers without the bar, on the floor of the House, was introduced by the *SPEAKER*. He said it would be very pleasing to him that some specific order should be taken thereupon by the House, since a variety of inconveniences attended the present mode as well as the former.

Mr. DAVIS then moved, that during the present question, (Message of the President, &c.,) the present order relative to the admission of strangers be suspended, and that any persons introduced by members should be admitted without the bar.

Mr. HARPER moved, that the words, "during the present session," be struck out, which was agreed to—38 to 26.

The question on the resolution was taken and negatived—48 to 33.

On Mr. RANDOLPH's wishing to know what was the present order, Mr. *SPEAKER* explained it to be, that no person be admitted without the bar, on the floor of the House, except public characters, and such as are admitted by the special order of the *SPEAKER*.

Mr. RANDOLPH then moved for the exclusion of strangers from that part of the House altogether, for which he mentioned several reasons.

This motion was negatived, without a division.

LANDS FOR MILITARY SERVICES.

A message was received from the Senate informing the House that they insisted on their amendments, which were disagreed to by the House, and on which conferees were appointed, to the bill respecting the grant of lands for military services.

Mr. HARRISON, one of the conferees on the part of the House, afterwards reported that the conferees had agreed to recommend to the respective Houses a resolution, the import of which was, that the House should recede from their disagreement with the amendments proposed by the Senate, and agree to certain amendments proposed by the conferees.

The report was concurred in by the House.

A message was afterwards received from the Senate notifying that they had receded from their amendments, and adopted those reported by the conferees.

SUNDRY BILLS.

The House resolved itself into a Committee on the bill for the relief of Thomas Arnold, which was agreed to, and ordered to be engrossed for a third reading on Monday.

The House also resolved itself into Committee on the report of the select committee on the petition of John Mountjoy. Some difficulty appearing, the Committee rose, and obtained leave to sit again.

The House also resolved itself into Committee on the report of the select committee on the petition of Isaac Zane. The committee had reported a resolution for allowing the land prayed for, and an amendment was added to introduce a proviso, that it did not come within the military lands. The report was agreed to, and the Committee instructed to report a bill accordingly.

The House resolved itself into a Committee of the Whole on the bill to establish a General Stamp Office; and, after some time spent therein, the Committee rose and reported several amendments thereto; which were severally twice read, and agreed to by the House.

The said bill was then further amended at the Clerk's table, and, together with the amendments, ordered to be engrossed, and read the third time on Monday next.

Ordered, That the Committee to whom was referred the Message of the President of the United States, relative to the Mint, have leave to report thereon by bill or bills, or otherwise.

REPORT ON THE LOAN.

The House then went into Committee on the report of the Committee of Ways and Means on the subject of a loan. The report was read, as follows:

The Committee of Ways and Means, to whom was referred the estimates for the public service during the present year, having taken them into consideration, and obtained from the different Departments such further information as they deemed necessary, beg leave to submit to the consideration of the House the following report on that subject:

The committee thought it proper, before they entered into the subject referred to them, to obtain from the Treasury Department a detailed estimate of the revenue and expenditure of the present year, according to existing laws. For this purpose was written to the Secretary of the Treasury the letter, of which a copy, (No. 1,) together with his answer, (No. 2,) and the estimate requested, (No. 3,) is subjoined to this report.

From this estimate it appears that the whole sum required for the public service, during the present year, including the interest and reimbursement of the public debt of every description, the civil list, army and navy, and every incidental charge, amounts to fifteen millions three hundred and ninety-three thousand and thirty-four dollars and eleven cents. But this sum includes the whole army estimate, which was founded on the supposition that the twelve regiments of infantry and six troops of horse, composing the additional army, would be immediately completed. The act, however, for suspending further enlistments, having passed one branch of the Legislature, the committee thought it proper to ascertain, as nearly as possible, what reduction in the expense of the army would result from this bill, should it pass into a law. For this purpose they wrote a letter to the Secretary of War, a copy of which, (No. 4,) with his answer, (No. 5,) and an estimate of the reduction in question, (No. 6,) they have annexed to this report. From this paper it appears that the reduction may be calculated at about one million of dollars; which, as the bill has now passed into a law, must be deducted from the former estimate of fifteen millions three hundred and ninety-three thousand and thirty-four dollars and eleven cents, and will leave a balance of fourteen millions three hundred and ninety-three thousand and thirty-four dollars and eleven cents, for the expenses of the year.

From this balance, however, the committee are of opinion that a further deduction of six hundred thousand dollars ought to be made. This sum is added to the navy estimate as a further appropriation during the present year, for the building of the six 74's. But the

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committee, entertaining doubts whether it would be for the benefit of the public to press the building of those ships so fast as to require this further appropriation, since they must in that case be built of timber far from sufficiently seasoned, wrote to the Secretary of the Navy requesting his opinion on this point. A copy of their letter, (No. 7,) together with his answer, (No. 8,) is hereunto subjoined. This answer, to which the committee beg leave to direct the attention of the House, furnishes, in their opinion, very sufficient reasons for avoiding that degree of expedition in building the 74's, which would require the further appropriation of six hundred thousand dollars. And they therefore think it proper to deduct that sum also from the general estimates of expenditure for the year, which will reduce that expenditure to the sum of thirteen millions seven hundred and ninety-three thousand and thirty-four dollars and eleven cents.

The whole estimated amount of revenue to meet this expenditure is nine millions three hundred and one thousand two hundred and fifty-eight dollars and fifty-one cents, as detailed in the statement (No. 3) furnished by the Secretary of the Treasury, and above alluded to, which sum being deducted from the sum of thirteen millions seven hundred and ninety-three thousand and thirty-four dollars and eleven cents, which has been stated as the amount of expenditure, it leaves a balance of four millions four hundred and ninety-one thousand seven hundred and seventy-five dollars and sixty-one cents.

The Government, however, possesses funds to cover this balance in part. From the above-mentioned statement (No. 3) it appears that on the thirty-first of December, one thousand seven hundred and ninety-nine, there remained in the Treasury an unexpended balance of the last year's supplies, amounting to two millions one hundred and fifty thousand three hundred and seventy-seven dollars and ten cents. A considerable part of this sum has since been paid, or will be required for the discharge of contracts remaining due for the service of last year. It is not easy to ascertain with precision what portion of this balance will remain, after satisfying all demands of this description, to be applied to the service of the present year; but the Secretary of the Treasury, in his above-mentioned statement, (No. 3) estimates it at one million of dollars—an estimate which the committee have no reason for considering as too high. They therefore place this sum to the credit of the Government, which reduces the balance to be provided for by the loan to three millions four hundred and ninety-one thousand seven hundred and seventy-five dollars and sixty-one cents—say three millions five hundred thousand dollars.

In proposing a loan to the House, the committee wish to call its attention to the propriety of providing, at the same time, permanent revenues, equal to the interest of the debt to be incurred; and of making provision, also, for the gradual and timely extinguishment of the principal—a policy which, in their opinion, ought to be invariably adhered to, as the only means of avoiding that constant accumulation of debt which is the great evil of the funding system. The committee have turned their attention to this interesting part of the subject, and have little doubt of being able to propose such measures to the House as, without materially increasing the public burdens, will add to the present revenues a sum adequate to the accomplishment of so desirable an object. But as they are not yet possessed of all the information necessary for maturing

their plan, they reserve it for the subject of a further report.

In the mean time, they beg leave to present, for the consideration of the House, the following resolution, viz:

Resolved, That it is expedient to authorize the President of the United States to borrow, for the service of the present year, a sum not exceeding three millions five hundred thousand dollars, upon such terms and conditions as he shall judge most advantageous for the United States: *Provided*, That no contract or engagement shall be entered into which shall preclude the United States from reimbursing any sum or sums borrowed at any time after the expiration of fifteen years from the date of such loan.

The resolution was agreed to, and when taken up in the House, a bill was ordered to be prepared and reported conformably thereto by the Committee of Ways and Means.

A motion was made to adjourn till Monday, but on Mr. HARRISON's mentioning to the House the absolute necessity there was of receiving the report of the Committee of Enrollment on the bill respecting military lands, which must pass to-morrow, or the warrants would be located, by the old law, on Monday, the motion was withdrawn, and the House adjourned till to-morrow.

SATURDAY, March 1.

Mr. PARKER, from the select committee appointed for the purpose, having obtained leave, reported a bill for the government of the Marine Corps, while on shore; which was read a first and second time, committed to a Committee of the whole House, and made the order of the day for Thursday next.

MONDAY, March 3.

An engrossed bill, entitled "An act for the relief of Thomas Arnold," was read and passed.

An engrossed bill, entitled "An act to establish a general Stamp Office," was also read and passed.

Mr. HARPER, from the Committee of Ways and Means reported a bill to enable the President of the United States to borrow money for the public service; which was twice read and committed to the whole House.

Mr. PARKER from the Naval Committee, reported a bill for the better government of the Navy of the United States, and for repealing the law on the same subject, passed the second of March, 1799, which was twice read and committed to the whole House.

Mr. D. FOSTER reported a bill, from the Committee of Claims, for the relief of Campbell Smith; which was twice read, and referred to a Committee of the whole House.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting two statements; one exhibiting the value or quantities of the goods, wares, and merchandise, imported into the United States, in ships or vessels of the United States, for one year, prior to the first of October, one thousand seven hundred and ninety-eight and the other, exhibiting, in like manner, the importations in ships or vessels of foreign nations

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during the same period; which were read, and ordered to lie on the table.

LAKE SUPERIOR LANDS.

Mr. COOPER observed that a navy was considered an object of great importance, as was also our extended commerce, and neither of these could be carried on to any profit without a very liberal use of copper. That article could not be purchased at present at less than half a dollar a pound, but by attention to an object which was within our own power it might be had at a very low price. From these considerations he laid on the table the following resolution:

Resolved, That a committee be appointed to bring in a bill authorizing the President of the United States to appoint an agent to purchase of the Indians that tract of land on the south side of Lake Superior, which shall include the great copper bed.

Mr. C. said, as this invaluable copper mine was well known by individuals, it no doubt would soon become an object of speculation, but wishing to make it of public utility, as it must become if purchased, he hoped the proposition would be adopted.

DIVISION OF NORTHWEST TERRITORY.

Mr. CRAIK, from the committee to whom were referred to consider whether any alteration is necessary in the judicial establishment of the Territory Northwest of the Ohio, and also as to the expediency of dividing the said Territory into two distinct governments, reported the following resolution:

Resolved, That the Territory of the United States Northwest of the Ohio ought to be divided into two distinct and separate governments, divided by a line beginning at the great Miami river, and thence running north until it intersects the boundary line between the United States and Canada.

Referred to the Committee of the whole House.

JONATHAN ROBBINS.

The House then resolved itself into a Committee of the Whole on the Message of the President respecting Jonathan Robbins, when Mr. LIVINGSTON spoke about three hours in support of the resolutions he some time since submitted to the House on that subject.

Mr. BAYARD was proceeding to follow Mr. L. when a member moved the Committee to rise and ask leave to sit again. Mr. B. objected: he said he was prepared to proceed if the House would have patience at that late hour to hear him. Several members expressed a desire that he might proceed, which he was doing, when the SPEAKER hoped the gentleman would give way to a motion for the Committee to rise: he had no doubt of his friend being prepared for the discussion, but from the length the answer must necessarily take, the House certainly would be fatigued much before he would conclude. The motion was made and carried.

During Mr. LIVINGSTON's observations he introduced a copy of the record of the Circuit Court in New Jersey, where three men were tried and acquitted on a charge of piracy, and one of them for murder, on board of the same frigate and at

the same time. This record, on motion of Mr. RUTLEDGE, was ordered to be printed.

Mr. NICHOLAS, not being able to account to his satisfaction for the obvious change of conduct in our Executive in this recited instance and the one now under the consideration of the House (though precisely the same in facts) any other way than by supposing that a correspondence on the subject had occurred between the Executive of the United States and the British Government; though he expressed himself to be extremely unwilling, yet he thought it his duty to move that the President be requested to furnish it to the House.

An adjournment was immediately called and carried.

TUESDAY, March 4.

Mr. OTIS in behalf of the Committee of Defence, having first obtained leave, reported a bill from the committee to fix the compensation of the Paymaster General, and the Assistant to the Adjutant General, which was referred to a Committee of the whole House.

CASE OF JONATHAN ROBBINS.

Mr. GALLATIN presented to the House the following resolution:

Resolved, That the President of the United States be requested to cause to be laid before this House, copies of any requisition or application that may have been made by any foreign Minister, Consul, or Agent, for or concerning the delivery of William Brigstock, alias John Johnson, of John Evans, alias Michael Campbell, or of Joannes Williams, alias Joannes Williamson, who were tried in the Circuit Court of the United States, New Jersey district, on the charge of piracy committed on board the British frigate *Hermione*; and also, copies of any communications to and from any of the Executive Departments, and of any papers in the possession of either of the said departments, on the subject of the commitment, trial, discharge, or delivery, of either of them.

[Mr. NICHOLAS, yesterday, just before the rising of the House, mentioned the necessity of this inquiry, but the House adjourned before a motion was made to that effect.]

Some debate took place as to the disposal of this motion.

Mr. BAYARD hoped the resolution would follow the usual course, and lie on the table for a day. If the idea was to connect the case with that of Nash, or to bring more evidence to the present case, he thought it must fail of its object. It was impossible, he said, that the decision on that case could be the least guide to the House in the present, as it was a very distinct trial, and therefore he hoped it would lie.

Mr. LIVINGSTON hoped the resolution would lie on the table till another day, and for this plain reason. What were the House to do in the meantime? He believed it perfectly connected with the business which now occupied the House, and, therefore, if it was the desire of the House to proceed, that they had better dispose of this resolution immediately. But the gentleman from Delaware had intimated that it could bring no new evidence

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respecting the case now before the House, because it was a case quite distinct from it. To be sure, Mr. L. said, it would operate for the benefit of the gentleman's argument if he could make the House believe so; but Mr. L. thought they were clearly the same, except it was in men, in place of trial, and in Judges who tried them. Both were for precisely the same act, and committed at the same time. It would be remarked in the warrant that it appeared these men were committed under the Treaty with Great Britain; and therefore it was more than probable that it was in consequence of application from some British agent to the Executive they were apprehended. How could the gentleman say it could give no new light? Was it possible that the conduct of the Executive in the case of Brigstock and others, in New Jersey, could afford no new light to the conduct of the same Executive, in the very same case, on the trial of Thomas Nash? Mr. L. said he knew nothing of what passed between the Executive and others; but suppose it should appear, if the House obtain possession of the communication, that application had been made before the trial, by some British agent, for the delivery up of all or either of these men, and the answer of the President had been that it was a judicial point, and therefore he did not choose to meddle with it? Certainly the gentleman would not say that this case had nothing to do with the present, in which such an extraordinary change of conduct had been evinced. If this result could arise (which it was impossible to deny) gentlemen ought to yield to the wishes of others. The plea could not now be that they would have to send to South Carolina for what was asked, because this information might be procured in a few hours; and, certainly, to obtain what was deemed so important, a small delay might well be borne.

A gentleman had said it ought to have been brought forward at an earlier period. How was this possible? Mr. L. said that he did not receive the record of the New Jersey case till just before the House met yesterday; he then made use of it in the discussion, and it was not till just at the rising of the House that any gentleman could make use of it, and then a gentleman did propose something of the kind. It was a plain inference to be drawn that some communication did occur with a foreign agent, and some answer must have been given; the Executive no doubt did act on the subject—he also acted in this case. It was therefore very proper for the House to be informed how he acted.

Mr. RUTLEDGE trusted that the difficulties gentlemen had to encounter in their present precipitate way of acting would prevent them bringing forward any crimination of so great a character in future without being better prepared to substantiate it. Mr. R. said that he had no objection to call for all the information that could conveniently be had previous to the debate commencing, but to do it afterwards was most extraordinary indeed! If these proceedings were to prevail, it would be impossible to say when a vote would be taken. Gentlemen, now they have entered into the

business, find that facts will not bear them out; they find they cannot substantiate what they would prove. One calls for this, another for that, and there would be no end to their calling. He wished for all possible elucidation of the subject as long as it could be proper, but after going into the argument, it was extremely improper.

But, Mr. R. asked, what had this case to do with the business of Nash? The gentleman supposed that it was considered by the Executive as a case within the judicial cognizance, and therefore he refused to act in it. Suppose it was so; and suppose the Executive afterwards changed his opinion—what he might consider an erroneous opinion? The object of this motion he believed to be to delay and finally to postpone the decision, but he hoped the House would not now agree to delay the business.

If the gentleman should hereafter think proper to promote an impeachment upon the proceedings in the case of Brigstock and others, and on that ground should ask for the papers relative thereto, he should have no objection to an acquiescence; but as this was an entirely independent case, he could see no necessity of yielding to the solicitations of gentlemen at present.

Mr. GALLATIN said, as to the late period of introducing the resolution, it must be clear that it was out of his power to propose it till the time he offered it to the House, because the facts which gave rise to it were not produced until yesterday; and as to the objects for it, the gentleman last up was quite mistaken. A gentleman had said that it was a last effort, in order to support charges against the President of the United States. As to what would be the effect of these papers if they should be sent, Mr. G. could not tell. He did not know that such papers existed at all, but the inference the gentleman had drawn was upon a presumption that they would criminate the President: this Mr. G. did not know was the fact; he knew nothing about them, they might criminate, or they might have a very contrary effect. The gentleman was extremely mistaken if it was his idea that other gentlemen were determined at all events to discover a charge; he only wished an investigation of the truth, and let that truth as well as the law dictate the proper measures to be used.

The affair having been brought before the House, he would say it was their duty to obtain all possible information, whether in favor of, or against the President; with this view he made the motion. Contrary to the opinion expressed by the gentleman last up, he must consider this case extremely similar, and he believed the most minute scrutiny could not distinguish between them. There was this difference, however, so far as the House had knowledge of at present: in one there was a requisition made; in the other there possibly was not; but whether so or not he wished to be satisfied, as well as to the ground for which a requisition was made and refused. There had been no law passed since the New Jersey case occurred to carry this 27th article of the treaty into effect, and therefore the proceedings in every case ought

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to have been precisely the same; but not having been so, Mr. G. said he wished to know on what rule or law the President had acted.

Much had been said as to the claim of Thomas Nash to citizenship. How far the President acted in that case with regard to citizenship would be seen; but there was one remarkable fact as to the New Jersey case. One of the men, named Brigstock, it appeared was indicted on three different charges; two of them were for piracy, and were much alike; the other was for murder; for the two first he was tried and acquitted, but for the last, a *nolle prosequi* was left: one remarkable difference was in the last indictment from the two others; in that he was represented as being a citizen of the United States. He thought it was very probable the *nolle prosequi* was ordered by the President because the man was a citizen of the United States; the opinion of the President on that case Mr. G. thought would tend much to elucidate his conduct with respect to Nash's case.

The question was then taken on the consideration of the resolution, and decided in the negative—yeas 46, nays 54, as follows:

YEAS—Willis Alston, Theodorus Bailey, Phanael Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, John Condit, Thomas T. Davis, John Dawson, Joseph Eggleston, John Fowler, Albert Gallatin, Samuel Goode, Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, Archibald Henderson, David Holmes, George Jackson, James Jones, Aaron Kitchell, Michael Leib, Matthew Lyon, Edward Livingston, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, John Randolph, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

NAYS—George Baer, Bailey Bartlett, James A. Bayard, John Bird, Jonathan Brace, John Brown, Christopher G. Champlin, William Cooper, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, George Dent, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Benjamin Huger, James H. Imlay, John Wilkes Kittera, Henry Lee, Silas Lee, Samuel Lyman, James Linn, John Marshall, Abraham Nott, Harrison G. Otis, Robert Page, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, John Rutledge, jr., Samuel Sewall, James Sheafe, William Shepard, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

And then the House adjourned.

WEDNESDAY, March 5.

Mr. HARRISON, from the committee appointed for that purpose, reported a bill for the relief of Isaac Zane; which was twice read, and referred to a Committee of the Whole.

Mr. SPAIGHT proposed the following resolution:

Resolved, That a committee be appointed to inquire whether any, and what, alterations are necessary in

the time for holding the District Court of North Carolina, and that they report by bill or otherwise.

Mr. COOPER called up his resolution respecting the purchase of a copper vein of the Indians, on the south side of Lake Superior; which was amended, so that the Committee inquire into the expediency of the measure.

Three members were appointed conformably thereto.

JONATHAN ROBBINS.

The resolution of Mr. GALLATIN, calling upon the President for papers in the case of Brigstock and others, tried in New Jersey, was again taken up; when,

Mr. EDMOND said he almost ceased to wonder at anything done on that floor. If the intentions of gentlemen were to lay the foundation of another inquiry, which should bring the past conduct of the President to view, perhaps this motion might then be proper; but calling for papers relative to another transaction, and not included in the original resolutions, was unaccountable, except it was to lay the foundation of an impeachment of the President; and if even that was the view, the House ought first to get rid of these troublesome resolutions. He knew it was very easy for gentlemen to get up and call for this and that testimony, and if they did not receive it, to make a handle of the refusal, by saying the evidence was precluded; but, Mr. E. said, such excuses would not in the least affect his vote.

Suppose the papers in question were obtained, he could perceive no possible application they would have to the present case; for, if the President was totally wrong in what he did respecting Johnson, (or Brigstock,) that would not prove him wrong or right in his conduct respecting Nash. The facts respecting Robbins (or Nash) were only now before the House, in the resolutions, and no other case ought to be brought to confound it. Suppose this was admitted; if the gentleman should still find himself deficient in his testimony to support the resolutions, he might want the House to send for more testimony from some other parts. This kind of conduct must take up unnecessary time, when a decision was very necessary to come to. He hoped the motion would be negatived.

Mr. MACON confessed he was astonished at the conduct he had seen exemplified in the House; it appeared to him that gentlemen were making every possible excuse to prevent that information coming before the House which the friends of the resolution said they wanted.

If, Mr. M. said, he was desirous of injuring the reputation of the President, (and that he declared he was not,) he should think himself facilitating that desire by throwing every embarrassment in the way, and refusing every sort of information on the subject; this conduct would effectually tell the public that the truth dare not be seen—that the facts are too bad to be seen. He could not think it was any great mark of friendship to the President to give rise to such conjectures as the people must and would form, by the door to investigation into his conduct being stopped. In his opinion, Mr. M. said, this seclusion of the facts went to prove that

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the opinion of the President, or his conduct in the New Jersey case, was right, and to reveal it would amount to an evidence that the latter was wrong with respect to Nash. If it was otherwise, the papers asked for would speak for themselves. It certainly would have a very suspicious appearance to refuse the papers, which were declared by several gentlemen to be important to their forming a decision.

Mr. M. wished to have got rid of this subject altogether; but, as it must be examined, he wished it to be done with all the evidence possible. If there were gentlemen who were enemies to the President, he declared he was not one; he desired to do him justice, which he thought could not be done by hiding any part of his conduct which was open to suspicion. If the President had changed his opinion, give him an opportunity to show that he had acted right. If the papers should prove to be of no use in the present investigation, he could see no harm that could accrue from them.

Mr. SHEPARD hoped the resolution never would be permitted to go on the Journals of the House, because it must tend to injury. The object he believed only to be delay. He thought, when the resolution was first submitted, in having anything to do with the subject the House committed a very great error; but because the House had committed one blunder, was that any reason why they should go on blundering still? He hoped the House would get rid of this subject with all possible expedition.

Mr. LIVINGSTON said, if he were really a personal enemy to the President, he should rejoice at such a motion as this being opposed; he thought it a very inconsistent part of the conduct of those gentlemen who called themselves exclusive friends of the President; those gentlemen who boasted of giving up their personal ease to the service of their country, in contradistinction to those gentlemen of opposite political opinions. His bitterest enemies would not wish to place him in a more undignified situation. What inference can be drawn by the people of the United States, but that there is something rotten in the business, that will bear too hard on the conduct of the President to be made public? that he had done, in the case of Nash, without consideration, very differently from what he did in the case of Brigstock, after mature consideration?

It had appeared, in the course of this business, Mr. L. said, that some gentlemen in the House had been in the habit of corresponding with the Department of State on the case of Robbins; might it not be inferred, from their subsequent conduct, that they had discovered something which they did not choose to have exposed? Whether this was a fair inference or not it would certainly be made.

The wretched arguments with which this opposition was supported, Mr. L. said, was most extraordinary, and would be quite so, could it be supported on better grounds. The distinction of the cases, when no perceptible distinction exists; the time that it would waste, when a few hours could procure all that was asked; and, above all, the miserable excuse of trouble to the clerks in the Secretary's office; were too futile for gen-

tlemen to suppose they could palm them upon the public. But, miserable as they are, it is a convincing proof that no better are to be found, and these are their last resort.

To suppose that no correspondence took place would be an absurdity, and equally so would it be to harbor the opinion, which gentlemen had desired to establish, that it could throw no light upon the present subject if it did appear. Gentlemen had actually presumed to say that these cases were not the same; but what gentleman had pretended to draw a shade of distinction? It was impossible, and nothing was wanted to prove this fact but a slight examination of the two cases. If they are the same, said Mr. L., it is impossible to suppose the conduct of the Executive in respect to one, and the proceedings of the court thereupon, will not be laid down as a rule for future proceeding. This opinion of the President, in the New Jersey case, was no doubt given upon due deliberation; and in a future case, so precisely the same, his conduct ought to have been the same, or, not being so, the House ought to be informed why it differed. The result could be obtained; if it should prove favorable to the character of the President, Mr. L. declared he should be as willing to admit it as those who called themselves his exclusive friends.

Mr. HARPER said, when the gentleman from New York undertook to direct others in their vote, he should be careful to give reasons which must convince their minds. For his part, Mr. H. said, he never chose to accept of advice from an enemy; but if he could get instruction from his errors, and, viewing his mistaken measures, could improve himself, he was always willing to do it. If he took advice from any man he must know that his motives were good in giving it; if, in the present instance, he could believe the design of the gentleman was to preserve the President of the United States from obloquy; if he had not discovered the "pen dipped in gall," he should be more inclined to attend to his advice. He was not afraid that the people of the United States were so stupid as to mistake the true light in which they ought to view the subject.

Was it a common practice, Mr. H. asked, to exhibit vast charges, and then go to look for the testimony? Why, did not the gentleman and his counsel, whoever they might be, know that the testimony from South Carolina, and the testimony from New Jersey, or any other, would be necessary to support their charge? They had plenty of time since the subject was first agitated. Had not this subject been talked of for eight months past, and pasteboard figures of Jonathan Robbins been exhibited at every election ground in the United States? The most ordinary rules of courts of justice in the United States forbade testimony to be admitted at such a period of the proceeding. If any public accuser in the United States was to conduct himself in that way he would get severely rapped over the knuckles, if not thrown over the bar. The matter has proceeded too far for its admission.

But, said Mr. H., what can be the use of this tes-

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timony? Gentlemen say that the Executive has decided on one case in different ways, and that, on the present occasion, he must have been wrong. One gentleman said, the claim of citizenship was important. But this is a wrong idea; the claim of citizenship, which was built on falsehood, was not made till a month after the President had acted on the case, and, consequently, it must be out of the question. It is scarcely possible that any requisition was ever made by any British agent in the case in New Jersey. Can it be supposed that the President would be guilty of such a boyish trick—of such versatility of conduct in his dealings with a foreign nation—as, in a few months, to put a different construction upon one and the same action? No; it is absolutely impossible, and gentlemen well know it.

The difference of the cases, Mr. H. said, was that, in New Jersey, the men were indicted by the Circuit Court; they were not claimed to be given up to the British. They were indicted for an offence cognizable in that court; bills were found against them; two of them were tried and acquitted, the other the President ordered a *nolle prosequi* entered upon. Why were the men acquitted? Was it through a defect of testimony? No, sir, said Mr. H., but through a defect in the jurisdiction. The jury well knew, being judges of law as well as of fact, that the court had no jurisdiction, and, therefore, they made a return of not guilty. Inasmuch as there was no demand made from Great Britain, the men were discharged.

Mr. H. said he was opposed to this motion on account of the principle contained in it. It was very wrong first to exhibit a charge and then go to hunt for testimony. It was like hanging a man upon a gibbet, and then seeking for his guilt. This principle had been presented to the House in various shapes, but every one was, he thought very properly, rejected, as he had no doubt this would also be. If this were to be acceded to, the next thing would be to search for a piece of evidence in Georgia or in Maine, or anything that would procure the object—delay, and its influence on a certain occasion—the “election.”

Here was a criminal charge, dressed up and blazoned out with all the false colors which a morbid imagination could invent, but which was manifestly and totally unfounded, and contrary to fact; it therefore appeared to him necessary, Mr. H. said, to come to a decision speedily, and strip the charge of its gloss, in order that its true deformity might appear, and all the world see that the intention to accuse was baffled by an exposure of truth, and the character accused justified from guilt.

Mr. S. SMITH said, the gentleman last up had given the most powerful reason why these papers were necessary that could possibly be imagined; he said, in strong language, that no requisition had ever been made, in the New Jersey case, to deliver up the men to the British. If this was a fact, most assuredly the case would not apply; but the only way to estimate that fact was to obtain a view of the papers, or know from authority that there were none. Mr. S. said he could not draw

that conclusion. He believed that a requisition had been made; that it was precisely the same as the South Carolina case; and that the papers relating to it would be completely in point; to which the House ought to have access, and not go to British statutes and law books when the country produced a precedent.

The gentleman last up had said that the jury, being judges of law and fact, determined that there was no jurisdiction. How that was he could not say; the verdict was, not guilty; which, most likely, was a verdict upon facts. Suppose it should turn out, by the documents, that requisition was made for these men, and they should prove that two of them were liberated for want of sufficient proof; suppose it should turn out that this very Lieutenant Foreshaw was sworn to have been killed by Brigstock, and yet, now, Nash is charged with having killed Foreshaw; suppose it should turn out that Brigstock was an American citizen, and being such, was liberated from further prosecution, because the President might have thought that an American citizen, impressed on board a British ship-of-war, was justified in getting his liberty. These things might appear; the same claim of citizenship was now made; and, in his opinion, a jury trial ought to have been had in order to ascertain facts so material to a man's personal interest.

Mr. HARPER explained: that the said documents did not discover any requisition having been made in the New Jersey case. And, further, instead of positively saying the jury had acquitted for want of jurisdiction, he said it was presumed so.

Mr. SMILIE said, there was another fact stated by the gentleman which was incorrect; he said that the figure of J. Robbins was hung up at every election ground. This was not true, for Mr. S. said he was at one election where it was not hung up. [Several other gentlemen also declared that they saw no such thing in their respective districts, but they heard of it in some few places.] One extraordinary feature, Mr. SMILIE observed, was easily perceived throughout the whole of this attempt to investigate facts—it appeared that gentlemen were determined to exculpate the President, at all events; he was not ready to do so, nor was he ready to accuse him; he only wished to do what was right and lawful, for which purpose he wished every document that could assist him. It was strange, that while there were papers which, it was said, would make the whole of the Executive conduct appear free of blame, the friends of the Executive should refuse them. How could gentlemen say they had not withheld important testimony, when all the world must perceive that facts were yet hidden that would throw light on the case.

Mr. H. LEE said, he had hitherto voted with gentlemen who asked for papers; he did it because they themselves said they wanted such papers to guide their decision; he was unwilling they should have any excuse. Supposing that other information might possibly be procured, and anxious to obtain it, he wrote to the Secretary of State, but received for answer that there was none.

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Mr. L. said he did it, in case there had been any papers, that they should be produced. He should have voted on the present question in the same way, but, from what he had perceived, he found that any attempts to gratify those gentlemen were in vain, and that to encourage it would be wasting day after day, without any hope of settling the main inquiry before the next session of Congress. Besides, Mr. L. said, the session was far spent, and not one public bill was yet passed. And should so many days be spent on a matter of so little consequence as considering the case of an individual who had transgressed the law, and very properly suffered for his crimes? He hoped not. From this moment he was determined, by his vote, to stop every attempt to delay a final decision.

Mr. L. contended that the President had a right to change his proceedings, according to his opinion, if he should be convinced of the propriety of it. It was a privilege every public character enjoyed. He would not vote for a postponement, which he must do, were he to vote for the motion.

Mr. NICHOLAS thought there was a very great probability that a requisition was made in the New Jersey case. The gentleman from South Carolina (Mr. HARPER) said there were none; but how did he know it? Did the gentleman believe that the British Ministry were not as desirous to have these men delivered as they were of the other? To suppose they acted understandingly; to suppose they were desirous of pursuing one steady object, unremittingly, as they always had done, would warrant a strong presumption that they did demand those men. It was impossible but the papers in question must either add to or diminish the construction put upon this case, and solve some important queries.

Mr. DANA thought the conduct of the President was consistent, Constitutional, and proper, and that it was out of the power of any gentleman to prove the contrary. One great reason for thinking this was, the manner this charge had been conducted from its first appearance, which was contrary to all legal knowledge and Constitutional principles. He defied any gentleman to produce a precedent, in any public body, except it was in the proceedings of the Revolutionary Government of France. The manner of conducting the business being totally wrong, Mr. D. said he did not expect to receive the least conviction from anything that would be brought forward, or any arguments which would be used.

Gentlemen had said it would awaken dreadful suspicions if the motion was negatived. And were the House to be deterred from their duty at the apparition of a demagogue? No, he trusted not; because he well knew that men of understanding would approve their conduct; and if weak and silly men disapproved, he was willing to bear it from them.

If gentlemen would look to the record they would find that the cases were different; these men were charged under the statute of the United States, the other was not. The proceeding being different, the case could not enlighten us.

As well might gentlemen ask for the whole of the State trials in order to discover the law on impeachments.

Mr. GALLATIN contended, that if investigation was the object of the House, they ought to grant the resolution. Whether it was admitted or not, it would be impossible to deny one fact—that the court did admit jurisdiction in that case, which was exactly similar to this, and that the court of South Carolina did assume jurisdiction. Whether the demand was made in the Jersey case or not, it was clear that it was made in the case of Nash, and that it was complied with; and this man, by the advice of the President, was taken out of the hands of the Judiciary.

But to know how exactly the circumstances attending the Jersey case correspond with the latter, the papers were certainly desirable. This was a case in point, much better than all which the English authorities could produce; and there being a different decision, it certainly ought to be known why that difference did occur. The gentleman from South Carolina had stated that no jurisdiction was admitted by the jury, and therefore the men were acquitted, and that no requisitions were made; to be sure, he afterwards said it was all founded on supposition. Now, whether these were or were not facts, the papers would tell. By knowing all the circumstances of that case, a decision could be formed with more accuracy as to the other case.

Mr. DAVIS said he was desirous of avoiding this disagreeable subject, but as a majority of the House thought differently, and they determining, he should give a vote, however contrary to his will. He certainly wished to meet it with all the information in the power of the House. The gentleman from New York had brought forward certain resolutions which he had defended. The gentleman from South Carolina said they were blazoned with falsehood. Now, which of these two gentlemen, Mr. D. asked, was he to believe? How could he form an opinion without the facts being produced? He wished not to be forced to form it upon bare conjecture—he wished to have truths before him. Certainly, if he was refused facts, he must suppose there was some great reason against the disclosure. He asked gentlemen to recollect in what a situation they placed the Executive, exposed to such censure. Let everything appear that will do honor to the character of that gentleman, but to afford such crippled testimony never would acquit the President in the eyes of the American people, if that House should be satisfied that his conduct was honorable.

The question was then taken on agreeing to the resolution, and decided in the negative—yeas 46, nays 46, as follows:

YEAS—Willis Alston, Theodorus Bailey, Phanael Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, John Condit, Thomas T. Davis, John Dawson, Joseph Eggleston, John Fowler, Albert Gallatin, Samuel Goode, Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, Archibald Henderson, David Holmes, George Jackson, James Jones, Aaron Kitchell, Michael Leib, Matthew Lyon, Edward Liv-

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ingston, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, John Randolph, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

YAYS—George Baer, Bailey Bartlett, James A. Bayard, Jonathan Brace, John Brown, Christopher G. Champlin, William Cooper, William Craik, John Davenport, Franklin Davenport, John Dennis, George Dent, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, William Gordon, William H. Hill, Henry Lee, Silas Lee, James Linn, John Marshall, Abraham Nott, Harrison G. Otis, Robert Page, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, John Rutledge, jun., Samuel Sewall, James Sheafe, William Shepard, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

The **SPEAKER** voted in the negative.

The House then resolved itself into a Committee on the Message, when Mr. **BAYARD** proceeded, in answer to Mr. **LIVINGSTON**, in which he spoke about three hours. The Committee then rose, and obtained leave to sit again.

THURSDAY, March 6.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act declaring the assent of Congress to certain acts of the States of Maryland and Georgia," with an amendment; to which they desire the concurrence of this House.

JONATHAN ROBBINS.

The House went into Committee of the Whole on the Message of the President, in the case of Jonathan Robbins, when Mr. **NICHOLAS** spoke about three hours in favor of the resolutions introduced by Mr. **LIVINGSTON**, which were negatived—yeas 34, nays 58.

Some discussion then took place on taking up the resolution presented by Mr. **BAYARD**, which was also with the Committee of the Whole House. The Committee at length rose without entering upon it, and reported their disagreement to the resolutions proposed by Mr. **LIVINGSTON**; and the question whether the Committee should have leave to sit again was taken by yeas and nays, and carried—yeas 59, nays 38, as follows:

YEAS—Willis Alston, George Baer, Bailey Bartlett, James A. Bayard, John Bird, Phanuel Bishop, John Brown, Robert Brown, C. G. Champlin, Matthew Clay, John Condit, William Cooper, S. W. Dana, John Davenport, Franklin Davenport, Thomas T. Davis, John Dawson, Joseph Dickson, William Edmond, Abiel Foster, Dwight Foster, Jonathan Freeman, Albert Gallatin, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, Robert Goodloe Harper, Joseph Heister, David Holmes, James H. Inlay, George Jackson, John Wilkes Kittera, Henry Lee, Silas Lee, Michael Leib, Samuel Lyman, Edward Livingston, Nathaniel Macon, John Marshall, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, Jonas

Platt, John Randolph, Samuel Sewall, John Smilie, John Smith, David Stone, Thomas Sumter, Benjamin Taliaferro, George Thatcher, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Peleg Wadsworth, and Robert Williams.

NAYS—Theodorus Bailey, Jonathan Brace, Samuel J. Cabell, Gabriel Christie, William Craik, John Dennis, George Dent, Joseph Eggleston, Thomas Evans, Samuel Goode, William Gordon, Edwin Gray, Andrew Gregg, William Barry Grove, John A. Hanna, Archibald Henderson, William H. Hill, James Jones, Aaron Kitchell, Matthew Lyon, James Linn, Abraham Nott, Harrison G. Otis, Robert Page, Josiah Parker, Thomas Pinckney, Leven Powell, John Reed, John Rutledge, jun., William Shepard, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, Richard Thomas, John Thompson, Robert Waln, Lemuel Williams, and Henry Woods.

The question was then before the House to agree to the report of the Committee in their disagreement with the resolutions.

Mr. **GALLATIN** rose, and entered generally into the argument, in a speech of about two hours, after which the House adjourned.

FRIDAY, March 7.

The amendments of the Senate to the bill declaring the assent of Congress to certain acts of the States of Maryland and Georgia were referred to the Committee of Revisal and Unfinished Business.

Mr. **SPAIGHT**, from the committee appointed for that purpose, reported a bill to alter the times of holding the District Court of North Carolina; which was read a first and second time, and committed for Monday next.

Mr. **HARPER** presented a petition of about fifty families, residing on a tract of territory ceded by the State of South Carolina to the United States, stating that they had been left unprotected and unacknowledged by any civil authority, and praying to be placed under such government as Congress in their wisdom may see fit. Referred to a select committee, to consider and report thereon.

JONATHAN ROBBINS.

The House took up the unfinished business of yesterday, and the question, Will the House agree with the Committee of the Whole in their disagreement to Mr. **LIVINGSTON**'s resolutions? being under consideration.

Mr. **MARSHALL** said, that believing, as he did most seriously, that in a Government constituted like that of the United States, much of the public happiness depended, not only on its being rightly administered, but on the measures of Administration being rightly understood—on rescuing public opinion from those numerous prejudices with which so many causes might combine to surround it, he could not but have been highly gratified with the very eloquent, and what was still more valuable, the very able and very correct argument which had been delivered by the gentleman from Delaware (Mr. **BAYARD**) against the resolutions now under consideration. He had not expected that the effect of this argument would be universal;

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but he had cherished the hope, and in this he had not been disappointed, that it would be very extensive. He did not flatter himself with being able to shed much new light on the subject; but, as the argument in opposition to the resolutions had been assailed with considerable ability by gentlemen of great talents, he trusted the House would not think the time misapplied which would be devoted to the reestablishment of the principles contained in that argument, and to the refutation of those advanced in opposition to it. In endeavoring to do this, he should notice the observations in support of the resolutions, not in the precise order in which they were made; but as they applied to the different points he deemed it necessary to maintain, in order to demonstrate, that the conduct of the Executive of the United States could not justly be charged with the errors imputed to it by the resolutions.

His first proposition, he said, was that the case of Thomas Nash, as stated to the President, was completely within the 27th article of the Treaty of Amity, Commerce, and Navigation, entered into between the United States of America and Great Britain.

He read the article, and then observed: The *casus fœderis* of this article occurs, when a person, having committed murder or forgery within the jurisdiction of one of the contracting parties, and having sought an asylum in the country of the other, is charged with the crime, and his delivery demanded, on such proof of his guilt as, according to the laws of the place where he shall be found, would justify his apprehension and commitment for trial, if the offence had there been committed.

The case stated is, that Thomas Nash, having committed murder on board of a British frigate, navigating the high seas under a commission from His Britannic Majesty, had sought an asylum within the United States; on this case his delivery was demanded by the Minister of the King of Great Britain.

It is manifest that the case stated, if supported by proof, is within the letter of the article, provided a murder committed in a British frigate, on the high seas, be committed within the jurisdiction of that nation. That such a murder is within their jurisdiction, has been fully shown by the gentleman from Delaware. The principle is, that the jurisdiction of a nation extends to the whole of its territory, and to its own citizens in every part of the world. The laws of a nation are rightfully obligatory on its own citizens in every situation where those laws are really extended to them. This principle is founded on the nature of civil union. It is supported everywhere by public opinion, and is recognised by writers on the laws of nations. *Rutherford*, in his second volume, page 180, says: "The jurisdiction which a civil society has over the persons of its members, affects them immediately, whether they are within its territories or not."

This general principle is especially true, and is particularly recognised, with respect to the fleets of a nation on the high seas. To punish offences committed in its fleet, is the practice of every na-

tion in the universe; and consequently the opinion of the world is, that a fleet at sea is within the jurisdiction of the nation to which it belongs. *Rutherford*, vol. ii. p. 491, says: "there can be no doubt about the jurisdiction of a nation over the persons which compose its fleets, when they are out at sea, whether they are sailing upon it or are stationed in any particular part of it."

The gentleman from Pennsylvania, (Mr. GALLATIN,) though he has not directly controverted this doctrine, has sought to weaken it by observing that the jurisdiction of a nation at sea could not be complete even in its own vessels; and in support of this position he urged the admitted practice of submitting to search for contraband—a practice not tolerated on land, within the territory of a neutral Power. The rule is as stated; but is founded on a principle which does not affect the jurisdiction of a nation over its citizens or subjects in its ships. The principle is, that in the sea itself no nation has any jurisdiction. All may equally exercise their rights, and consequently the right of a belligerent Power to prevent aid being given to his enemy, is not restrained by any superior right of a neutral in the place. But, if this argument possessed any force, it would not apply to national ships-of-war, since the usage of nations does not permit them to be searched.

According to the practice of the world, then, and the opinions of writers on the law of nations, the murder committed on board of a British frigate navigating the high seas, was a murder committed within the jurisdiction of the British nation.

Although such a murder is plainly within the letter of the article, it has been contended not to be within its just construction; because at sea all nations have a common jurisdiction, and the article correctly construed, will not embrace a case of concurrent jurisdiction.

It is deemed unnecessary to controvert this construction, because the proposition, that the United States had no jurisdiction over the murder committed by Thomas Nash, is believed to be completely demonstrable.

It is not true that all nations have jurisdiction over all offences committed at sea. On the contrary, no nation has any jurisdiction at sea, but over its own citizens or vessels, or offences against itself. This principle is laid down in 2 *Ruth.* 488, 491.

The American Government has, on a very solemn occasion, avowed the same principle. The first Minister of the French Republic asserted and exercised powers of so extraordinary a nature, as unavoidably to produce a controversy with the United States. The situation in which the Government then found itself was such as necessarily to occasion a very serious and mature consideration of the opinions it should adopt. Of consequence, the opinions then declared deserve great respect. In the case alluded to, Mr. Genet had asserted the right of fitting out privateers in the American ports, and of manning them with American citizens, in order to cruise against nations with whom America was at peace. In rea-

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soning against this extravagant claim, the then Secretary of State, in his letter of the 17th of June, 1793, says:

"For our citizens then to commit murders and depredations on the members of nations at peace with us, or to combine to do it, appeared to the Executive, and to those whom they consulted, as much against the laws of the land as to murder or rob, or combine to murder or rob its own citizens; and as much to require punishment, if done within their limits, where they have a territorial jurisdiction, or on the high seas, where they have a personal jurisdiction, that is to say, one which reaches their own citizens only; this being an appropriate part of each nation, on an element where all have a common jurisdiction."

The well considered opinion, then, of the American Government on this subject is, that the jurisdiction of a nation at sea is "personal," reaching its "own citizens only;" and that this is the "appropriate part of each nation" on that element.

This is precisely the opinion maintained by the opposers of the resolutions. If the jurisdiction of America at sea be personal, reaching its own citizens only; if this be its appropriate part, then the jurisdiction of the nation cannot extend to a murder committed by a British sailor on board a British frigate navigating the high seas under a commission from His Britannic Majesty.

As a further illustration of the principle contended for, suppose a contract made at sea, and a suit instituted for the recovery of money which might be due thereon. By the laws of what nation would the contract be governed? The principle is general that a personal contract follows the person, but is governed by the law of the place where it is formed. By what law then would such a contract be governed? If all nations had jurisdiction over the place, then the laws of all nations would equally influence the contract; but certainly no man will hesitate to admit that such a contract ought to be decided according to the laws of that nation to which the vessel or contracting parties might belong.

Suppose a duel, attended with death, in the fleet of a foreign nation, or in any vessel which returned safe to port, could it be pretended that any Government on earth, other than that to which the fleet or vessel belonged, had jurisdiction in the case; or that the offender could be tried by the laws or tribunals of any other nation whatever?

Suppose a private theft by one mariner from another, and the vessel to perform its voyage and return in safety, would it be contended that all nations have equal cognizance of the crime, and are equally authorized to punish it?

If there be this common jurisdiction at sea, why not punish desertion from one belligerent Power to another, or correspondence with the enemy, or any other crime which may be perpetrated? A common jurisdiction over all offences at sea, in whatever vessel committed, would involve the power of punishing the offences which have been stated. Yet, all gentlemen will disclaim this power. It follows, then, that no such common jurisdiction exists.

In truth the right of every nation to punish is

limited, in its nature, to offences against the nation inflicting the punishment. This principle is believed to be universally true. It comprehends every possible violation of its laws on its own territory, and it extends to violations committed elsewhere by persons it has a right to bind. It extends also to general piracy.

A pirate, under the law of nations, is an enemy of the human race. Being the enemy of all, he is liable to be punished by all. Any act which denotes this universal hostility, is an act of piracy.

Not only an actual robbery, therefore, but cruising on the high seas without commission, and with intent to rob, is piracy. This is an offence against all and every nation, and is therefore alike punishable by all. But an offence which in its nature affects only a particular nation, is only punishable by that nation.

It is by confounding general piracy with piracy by statute, that indistinct ideas have been produced, respecting the power to punish offences committed on the high seas.

A statute may make any offence piracy, committed within the jurisdiction of the nation passing the statute, and such offence will be punishable by that nation. But piracy under the law of nations, which alone is punishable by all nations, can only consist in an act which is an offence against all. No particular nation can increase or diminish the list of offences thus punishable.

It had been observed by his colleague, (Mr. NICHOLAS,) for the purpose of showing that the distinction taken on this subject by the gentleman from Delaware (Mr. BAYARD) was inaccurate, that any vessel robbed on the high seas could be the property only of a single nation, and being only an offence against that nation, could be, on the principle taken by the opposers of the resolutions, no offence against the law of nations; but in this his colleague had not accurately considered the principle. As a man who turns out to rob on the highway, and forces from a stranger his purse with a pistol at his bosom, is not the particular enemy of that stranger, but alike the enemy of every man who carries a purse, so those who without a commission rob on the high seas, manifest a temper hostile to all nations, and therefore become the enemies of all. The same inducements which occasion the robbery of one vessel, exist to occasion the robbery of others, and therefore the single offence is an offence against the whole community of nations, manifests a temper hostile to all, is the commencement of an attack on all, and is consequently, of right, punishable by all.

His colleague had also contended that all the offences at sea, punishable by the British statutes from which the act of Congress was in a great degree copied, were piracies at common law, or by the law of nations, and as murder is among these, consequently murder was an act of piracy by the law of nations, and therefore punishable by every nation. In support of this position he had cited 1 *Hawk. P. C.* 267, 271-3, *Inst.* 112, and 1 *Woodeson* 140.

The amount of these cases is, that no new of-

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fence is made piracy by the statutes; but that a different tribunal is created for their trial, which is guided by a different rule from that which governed previous to those statutes. Therefore, on an indictment for piracy, it is still necessary to prove an offence which was piracy before the statutes. He drew from these authorities a very different conclusion from that which had been drawn by his colleague. To show the correctness of his conclusion, it was necessary to observe, that the statute did not indeed change the nature of piracy, since it only transferred the trial of the crime to a different tribunal, where different rules of decision prevailed; but having done this, other crimes committed on the high seas, which were not piracy, were made punishable by the same tribunal; but certainly this municipal regulation could not be considered as proving that those offences were, before, piracy by the law of nations. [Mr. NICHOLAS insisted that the law was not correctly stated, whereupon Mr. MARSHALL called for 3 *Inst.* and read the statute:]

"All treasons, felonies, robberies, murders, and confederacies, committed in or upon the seas, &c., shall be inquired, tried, heard, determined and judged in such shires, &c., in like form and condition as if any such offence had been committed on the land," &c. "And such as shall be convicted, &c., shall have and suffer such pains of death, &c., as if they had been attainted of any treason, felony, robbery, or other the said offences done upon the land."

This statute, it is certain, does not change the nature of piracy; but all treasons, felonies, robberies, murders, and confederacies, committed in or upon the sea, are not declared to have been, nor are they piracies. If a man be indicted as a pirate, the offence must be shown to have been piracy before the statute; but if he be indicted for treason, felony, robbery, murder, or confederacy, committed at sea, whether such offence was or was not a piracy, he shall be punished in like manner as if he had committed the same offence on land. The passage cited from 1 *Woodeson*, 140, is a full authority to this point. Having stated that offences committed at sea were formerly triable before the Lord High Admiral, according to the course of the Roman civil law, *Woodeson* says:

"But, by the statutes 27 H. 8. c. 4, and 28 H. 8. c. 15, all treasons, felonies, piracies and other crimes committed on the sea, or where the admiral has jurisdiction, shall be tried in the realm as if done on land. But the statutes referred to affect only the manner of the trial so far as respects piracy. The nature of the offence is not changed. Whether a charge amount to piracy or not, must still depend on the law of nations, except where, in the case of British subjects, express acts of Parliament have declared that the crimes therein specified shall be adjudged piracy, or shall be liable to the same mode of trial and degree of punishment."

This passage proves not only that all offences at sea are not piracies by the law of nations, but also that all indictments for piracy must depend on the law of nations, "except where, in the case of British subjects, express acts of Parliament" have changed the law. Why do not these "express

acts of Parliament" change the law as to others than "British subjects?" The words are general, "all treasons, felonies, &c." Why are they confined in construction to British subjects? The answer is a plain one: The jurisdiction of the nation is confined to its territory and to its own subjects.

The gentleman from Pennsylvania (Mr. GAL-LATIN) abandons, and very properly abandons, this untenable ground. He admits that no nation has a right to punish offences against another nation, and that the United States can only punish offences against their own laws and the law of nations. He admits, too, that if there had only been a mutiny (and consequently if there had only been a murder) on board the *Hermione*, that the American courts could have taken no cognizance of the crime. Yet mutiny is punishable as piracy by the law of both nations. That gentleman contends that the act committed by Nash was piracy, according to the law of nations. He supports his position by insisting that the offence may be constituted by the commission of a single act; that unauthorized robbery on the high seas is this act, and that the crew having seized the vessel, and being out of the protection of any nation, were pirates.

It is true that the offence may be completed by a single act; but it depends on the nature of that act. If it be such as manifests generally hostility against the world—an intention to rob generally, then it is piracy; but if it be merely a mutiny and murder in a vessel, for the purpose of delivering it up to the enemy, it seems to be an offence against a single nation and not to be piracy. The sole object of the crew might be to go over to the enemy, or to free themselves from the tyranny experienced on board a ship-of-war, and not to rob generally.

But, should it even be true that running away with a vessel to deliver her up to an enemy was an act of general piracy, punishable by all nations, yet the mutiny and murder was a distinct offence. Had the attempt to seize the vessel failed, after the commission of the murder, then, according to the argument of the gentleman from Pennsylvania, the American courts could have taken no cognizance of the crime. Whatever then might have been the law respecting the piracy, of the murder there was no jurisdiction. For the murder, not the piracy, Nash was delivered up. Murder, and not piracy, is comprehended in the 27th article of the treaty between the two nations. Had he been tried then and acquitted on an indictment for the piracy, he must still have been delivered up for the murder, of which the court could have no jurisdiction. It is certain that an acquittal of the piracy would not have discharged the murder; and, therefore, in the so much relied on trials at Trenton, a separate indictment for murder was filed after an indictment for piracy. Since, then, if acquitted for piracy, he must have been delivered to the British Government on the charge of murder, the President of the United States might, very properly, without prosecuting for the piracy, direct him to be delivered up on the murder.

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All the gentlemen who have spoken in support of the resolutions, have contended that the case of Thomas Nash is within the purview of the act of Congress, which relates to this subject, and is by that act made punishable in the American courts. That is, that the act of Congress designed to punish crimes committed on board a British frigate. Nothing can be more completely demonstrable than the untruth of this proposition.

It has already been shown that the legislative jurisdiction of a nation extends only to its own territory, and to its own citizens, wherever they may be. Any general expression in a legislative act must, necessarily, be restrained to objects within the jurisdiction of the Legislature passing the act. Of consequence an act of Congress can only be construed to apply to the territory of the United States, comprehending every person within it, and to the citizens of the United States.

But, independent of this undeniable truth, the act itself affords complete testimony of its intention and extent. (See *Laws of the United States*, vol. i. p. 10.) The title is: "An act for the punishment of certain crimes against the United States." Not against Britain, France, or the world, but singly "against the United States."

The first section relates to treason, and its objects are, "any person or persons owing allegiance to the United States." This description comprehends only the citizens of the United States, and such others as may be on its territory or in its service.

The second section relates to misprision of treason; and declares, without limitation, that any person or persons, having knowledge of any treason, and not communicating the same, shall be guilty of that crime. Here then is an instance of that limited description of persons in one section, and of that general description in another, which has been relied on to support the construction contended for by the friends of the resolutions. But will it be pretended that a person can commit misprision of treason who cannot commit treason itself? That he would be punishable for concealing a treason who could not be punished for plotting it? Or, can it be supposed that the act designed to punish an Englishman or a Frenchman, who, residing in his own country, should have knowledge of treasons against the United States, and should not cross the Atlantic to reveal them?

The same observations apply to the sixth section, which makes any "person or persons" guilty of misprision of felony, who, having knowledge of murder or other offences enumerated in that section, should conceal them. It is impossible to apply this to a foreigner, in a foreign land, or to any person not owing allegiance to the United States.

The eighth section, which is supposed to comprehend the case, after declaring that if any "person or persons" shall commit murder on the high seas, he shall be punishable with death, proceeds to say, that if any captain or mariner shall piratically run away with a ship or vessel, or yield her up voluntarily to a pirate, or if any seaman shall lay violent hands on his commander, to prevent

his fighting, or shall make a revolt in the ship, every such offender shall be adjudged a pirate and a felon.

The persons who are the objects of this section of the act are all described in general terms, which might embrace the subjects of all nations. But is it to be supposed that, if in an engagement between an English and a French ship-of-war, the crew of the one or the other should lay violent hands on the captain and force him to strike, that this would be an offence against the act of Congress, punishable in the courts of the United States? On this extended construction of the general terms of the section, not only the crew of one of the foreign vessels forcing their captain to surrender to another, would incur the penalties of the act, but, if in the late action between the gallant *Truxtun* and the French frigate, the crew of that frigate had compelled the captain to surrender, while he was unwilling to do so, they would have been indictable as felons in the courts of the United States. But surely the act of Congress admits of no such extravagant construction.

His colleague, Mr. M. said, had cited and particularly relied on the ninth section of the act; that section declares, that if a citizen shall commit any of the enumerated piracies, or any acts of hostility, on the high seas, against the United States, under color of a commission from any foreign Prince or State, he shall be adjudged a pirate, felon, and robber, and shall suffer death.

This section is only a positive extension of the act to a case which might otherwise have escaped punishment. It takes away the protection of a foreign commission from an American citizen, who, on the high seas, robs his countrymen. This is no exception from any preceding part of the law, because there is no part which relates to the conduct of vessels commissioned by a foreign Power; it only proves that, in the opinion of the Legislature, the penalties of the act could not, without this express provision, have been incurred by a citizen holding a foreign commission.

It is most certain, then, that the act of Congress does not comprehend the case of a murder committed on board a foreign ship-of-war.

The gentleman from New York has cited 2 *Woodeson*, 428, to show that the courts of England extend their jurisdiction to piracies committed by the subjects of foreign nations.

This has not been doubted. The case from *Woodeson* is a case of robberies committed on the high seas by a vessel without authority. There are ordinary acts of piracy which, as has been already stated, being offences against all nations, are punishable by all. The case from 2 *Woodeson*, and the note cited from the same book by the gentleman from Delaware, are strong authorities against the doctrines contended for by the friends of the resolutions.

It has also been contended that the question of jurisdiction was decided at Trenton, by receiving indictments against persons there arraigned for the same offence, and by retaining them for trial after the return of the habeas corpus.

Every person in the slightest degree acquainted

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with judicial proceedings, knows that an indictment is no evidence of jurisdiction; and that, in criminal cases, the question of jurisdiction will seldom be made but by arrest of judgment after conviction.

The proceedings, after the return of the habeas corpus, only prove that the case was not such a case as to induce the Judge immediately to decide against his jurisdiction. The question was not free from doubt, and, therefore, might very properly be postponed until its decision should become necessary.

It has been argued by the gentleman from New York, that the form of the indictment is, itself, evidence of a power in the court to try the case. Every word of that indictment, said the gentleman, gives the lie to a denial of the jurisdiction of the court.

It would be assuming a very extraordinary principle, indeed, to say that words inserted in an indictment for the express purpose of assuming the jurisdiction of a court, should be admitted to prove that jurisdiction. The question certainly depended on the nature of the fact, and not on the description of the fact. But as an indictment must necessarily contain formal words in order to be supported, and as forms often denote what a case must substantially be to authorize a court to take cognizance of it, some words in the indictments at Trenton ought to be noticed. The indictments charge the persons to have been within the peace, and murder to have been committed against the peace, of the United States. These are necessary averments, and, to give the court jurisdiction, the fact ought to have accorded with them. But who will say that the crew of a British frigate on the high seas, are within the peace of the United States? or a murder committed on board such a frigate, against the peace of any other than the British Government?

It is, then, demonstrated that the murder with which Thomas Nash was charged, was not committed within the jurisdiction of the United States, and, consequently, that the case stated was completely within the letter and the spirit of the twenty-seventh article of the treaty between the two nations. If the necessary evidence was produced, he ought to have been delivered up to justice. It was an act to which the American nation was bound by a most solemn compact. To have tried him for the murder would have been mere mockery. To have condemned and executed him, the court having no jurisdiction, would have been murder. To have acquitted and discharged him would have been a breach of faith, and a violation of national duty.

But it has been contended that, although Thomas Nash ought to have been delivered up to the British Minister, on the requisition made by him in the name of his Government, yet, the interference of the President was improper.

This, Mr. M. said, led to his second proposition, which was:

That the case was a case for Executive and not Judicial decision. He admitted implicitly the division of powers, stated by the gentleman from

New York, and that it was the duty of each department to resist the encroachments of the others.

This being established, the inquiry was, to what department was the power in question allotted?

The gentleman from New York had relied on the second section of the third article of the Constitution, which enumerates the cases to which the Judicial power of the United States extends, as expressly including that now under consideration. Before he examined that section, it would not be improper to notice a very material misstatement of it made in the resolutions, offered by the gentleman from New York. By the Constitution, the Judicial power of the United States is extended to all cases in law and equity, arising under the Constitution, laws, and treaties of the United States; but the resolutions declare that Judicial power to extend to all questions arising under the Constitution, treaties, and laws of the United States. The difference between the Constitution and the resolutions was material and apparent. A case in law or equity was a term well understood, and of limited signification. It was a controversy between parties which had taken a shape for judicial decision. If the Judicial power extended to every question under the Constitution, it would involve almost every subject proper for Legislative discussion and decision; if, to every question under the laws and treaties of the United States, it would, involve almost every subject on which the Executive could act. The division of power which the gentleman had stated, could exist no longer, and the other departments would be swallowed up by the Judiciary. But it was apparent that the resolutions had essentially misrepresented the Constitution. He did not charge the gentleman from New York with intentional misrepresentation; he would not attribute to him such an artifice in any case, much less in a case where detection was so easy and so certain. Yet this substantial departure from the Constitution, in resolutions affecting substantially to unite it, was not less worthy of remark for being unintentional. It manifested the course of reasoning by which the gentleman had himself been misled, and his judgment betrayed into the opinions those resolutions expressed. By extending the Judicial power to all cases in law and equity, the Constitution had never been understood to confer on that department any political power whatever. To come within this description, a question must assume a legal form for forensic litigation and judicial decision. There must be parties to come into court, who can be reached by its process, and bound by its power; whose rights admit of ultimate decision by a tribunal to which they are bound to submit.

A case in law or equity proper for judicial decision may arise under a treaty, where the rights of individuals acquired or secured by a treaty are to be asserted or defended in court. As under the fourth or sixth article of the Treaty of Peace with Great Britain, or under those articles of our late treaties with France, Prussia, and other nations, which secure to the subjects of those nations

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their property within the United States; or, as would be an article, which, instead of stipulating to deliver up an offender, should stipulate his punishment, provided the case was punishable by the laws and in the courts of the United States. But the Judicial power cannot extend to political compacts; as the establishment of the boundary line between the American and British dominions; the case of the late guarantee in our Treaty with France, or the case of the delivery of a murderer under the twenty-seventh article of our present Treaty with Britain.

The gentleman from New York has asked, triumphantly asked, what power exists in our courts to deliver up an individual to a foreign Government? Permit me, said Mr. M., but not triumphantly, to retort the question. By what authority can any court render such a judgment? What power does a court possess to seize any individual and determine that he shall be adjudged by a foreign tribunal? Surely our courts possess no such power, yet they must possess it, if this article of the treaty is to be executed by the courts.

Gentlemen have cited and relied on that clause in the Constitution, which enables Congress to define and punish piracies and felonies committed on the high seas, and offences against the law of nations; together with an act of Congress, declaring the punishment of those offences; as transferring the whole subject to the courts. But that clause can never be construed to make to the Government a grant of power, which the people making it do not themselves possess. It has already been shown that the people of the United States have no jurisdiction over offences committed on board a foreign ship against a foreign nation. Of consequence, in framing a Government for themselves, they cannot have passed this jurisdiction to that Government. The law, therefore, cannot act upon the case. But this clause of the Constitution cannot be considered, and need not be considered, as affecting acts which are piracy under the law of nations. As the judicial power of the United States extends to all cases of admiralty and maritime jurisdiction, and piracy under the law of nations is of admiralty and maritime jurisdiction, punishable by every nation, the judicial power of the United States of course extends to it. On this principle the Courts of Admiralty under the Confederation took cognizance of piracy, although there was no express power in Congress to define and punish the offence.

But the extension of judicial power of the United States to all cases of admiralty and maritime jurisdiction must necessarily be understood with some limitation. All cases of admiralty and maritime jurisdiction which, from their nature, are triable in the United States, are submitted to the jurisdiction of the courts of the United States.

There are cases of piracy by the law of nations, and cases within the legislative jurisdiction of the nation; the people of America possessed no other power over the subject, and could consequently transfer no other to their courts; and it has already been proved that a murder committed on board a

foreign ship-of-war is not comprehended within this description.

The Consular Convention with France, has also been relied on, as proving the act of delivering up an individual to a foreign Power to be in its nature Judicial and not Executive.

The ninth article of that Convention authorizes the Consuls and Vice Consuls of either nation to cause to be arrested all deserters from their vessels, "for which purpose the said Consuls and Vice Consuls shall address themselves to the courts, judges, and officers competent."

This article of the Convention does not, like the 27th article of the Treaty with Britain, stipulate a national act, to be performed on the demand of a nation; it only authorizes a foreign Minister to cause an act to be done, and prescribes the course he is to pursue. The contract itself is, that the act shall be performed by the agency of the foreign Consul, through the medium of the courts; but this affords no evidence that a contract of a very different nature is to be performed in the same manner.

It is said that the then President of the United States declared the incompetency of the courts, judges, and officers, to execute this contract without an act of the Legislature. But the then President made no such declaration.

He has said that some legislative provision is requisite to carry the stipulations of the Convention into full effect. This, however, is by no means declaring the incompetency of a department to perform an act stipulated by treaty, until the legislative authority shall direct its performance.

It has been contended that the conduct of the Executive on former occasions, similar to this in principle, has been such as to evince an opinion, even in that department, that the case in question is proper for the decision of the courts.

The fact adduced to support this argument is the determination of the late President on the case of prizes made within the jurisdiction of the United States, or by privateers fitted out in their ports.

The nation was bound to deliver up those prizes in like manner, as the nation is now bound to deliver up an individual demanded under the 27th article of the Treaty with Britain. The duty was the same, and devolved on the same department.

In quoting the decision of the Executive on that case, the gentleman from New York has taken occasion to bestow a high encomium on the late President; and to consider his conduct as furnishing an example worthy the imitation of his successor. It must be the cause of much delight to the real friends of that great man; to those who supported his Administration while in office from a conviction of its wisdom and its virtue, to hear the unqualified praise which is now bestowed on it by those who had been supposed to possess different opinions. If the measure now under consideration shall be found, on examination, to be the same in principle with that which has been cited, by its opponents, as a fit precedent for it, then may the friends of the gentleman now in office indulge the hope, that when he, like his predecessor, shall be

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no more, his conduct too may be quoted as an example for the government of his successors.

The evidence relied on to prove the opinion of the then Executive on the case, consists of two letters from the Secretary of State, the one of the 29th of June, 1793, to Mr. Genet, and the other of the 16th of August, 1793, to Mr. Morris.

In the letter to Mr. Genet, the Secretary says, that the claimant having filed his libel against the ship William, in the Court of Admiralty, there was no power which could take the vessel out of court until it had decided against its own jurisdiction; that having so decided, the complaint is lodged with the Executive, and he asks for evidence, to enable that department to consider and decide finally on the subject.

It will be difficult to find in this letter an Executive opinion, that the case was not a case for Executive decision. The contrary is clearly avowed. It is true, that when an individual, claiming the property as his, had asserted that claim in court, the Executive acknowledges in itself a want of power to dismiss or decide upon the claim thus pending in court. But this argues no opinion of a want of power in itself to decide upon the case, if, instead of being carried before a court as an individual claim, it is brought before the Executive as a national demand. A private suit instituted by an individual, asserting his claim to property, can only be controlled by that individual. The Executive can give no direction concerning it. But a public prosecution carried on in the name of the United States can, without impropriety, be dismissed at the will of the Government. The opinion, therefore, given in this letter, is unquestionably correct; but it is certainly misunderstood, when it is considered as being an opinion that the question was not in its nature a question for Executive decision.

In the letter to Mr. Morris, the Secretary asserts the principle, that vessels taken within our jurisdiction ought to be restored, but says, it is yet unsettled whether the act of restoration is to be performed by the Executive or Judicial department. The principles, then, according to this letter, is not submitted to the courts—whether a vessel captured within a given distance of the American coast, was or was not captured within the jurisdiction of the United States, was a question not to be determined by the courts, but by the Executive. The doubt expressed is not what tribunal shall settle the principle, but what tribunal shall settle the fact. In this respect, a doubt might exist in the case of prizes, which could not exist in the case of a man. Individuals on each side claimed the property, and therefore their rights could be brought into court, and there contested as a case in law or equity. The demand of a man made by a nation stands on different principles.

Having noticed the particular letters cited by the gentleman from New York, permit me now, said Mr. M., to ask the attention of the House to the whole course of Executive conduct on this interesting subject.

It is first mentioned in a letter from the Secretary of State to Mr. Genet, of the 25th of June,

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1793. In that letter, the Secretary states a consultation between himself and the Secretaries of the Treasury and War, (the President being absent,) in which (so well were they assured of the President's way of thinking in those cases,) it was determined that the vessels should be detained in the custody of the Consuls, in the ports, until the Government of the United States shall be able to inquire into and decide on the fact.

In his letter of the 12th of July, 1793, the Secretary writes, the President has determined to refer the questions concerning prizes "to persons learned in the laws," and he requests that certain vessels enumerated in the letter should not depart "until his ultimate determination shall be made known."

In his letter of the 7th of August, 1793, the Secretary informs Mr. Genet that the President considers the United States as bound "to effectuate the restoration of, or to make compensation for, prizes which shall have been made of any of the parties at war with France, subsequent to the 5th day of June last, by privateers fitted out of our ports." That it is consequently expected that Mr. Genet will cause restitution of such prizes to be made, and that the United States "will cause restitution" to be made "of all such prizes as shall be hereafter brought within their ports by any of the said privateers."

In his letter of the 10th of November, 1793, the Secretary informs Mr. Genet, that for the purpose of obtaining testimony to ascertain the fact of capture within the jurisdiction of the United States, the Governors of the several States were requested, on receiving any such claim, immediately to notify thereof the Attorneys of their several districts, whose duty it would be to give notice "to the principal agent of both parties, and also to the Consuls of the nations interested; and to recommend to them to appoint by mutual consent arbiters to decide whether the capture was made within the jurisdiction of the United States, as stated in my letter of the 8th inst., according to whose award the Governor may proceed to deliver the vessel to the one or the other party." "If either party refuse to name arbiters, then the Attorney is to take depositions on notice, which he is to transmit for the information and decision of the President." "This prompt procedure is the more to be insisted on, as it will enable the President, by an immediate delivery of the vessel and cargo to the party having title, to prevent the injuries consequent on long delay."

In his letter of the 22d of November, 1793, the Secretary repeats, in substance, his letter of the 12th of July and 7th of August, and says that the determination to deliver up certain vessels, involved the brig Jane, of Dublin, the brig Lovely Lass, and the brig Prince William Henry. He concludes with saying: "I have it in charge to inquire of you, sir, whether these three brigs have been given up according to the determination of the President, and if they have not, to repeat the requisition that they may be given up to their former owners."

Ultimately it was settled that the fact should be investigated in the courts, but the decision was re-

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gulated by the principles established by the Executive Department.

The decision, then, on the case of vessels captured within the American jurisdiction, by privateers fitted out of the American ports, which the gentleman from New York has cited with such merited approbation; which he has declared to stand on the same principles with those which ought to have governed the case of Thomas Nash; and which deserves the more respect, because the Government of the United States was then so circumstanced as to assure us that no opinion was lightly taken up, and no resolution formed but on mature consideration; this decision, quoted as a precedent and pronounced to be right, is found, on fair and full examination, to be precisely and unequivocally the same with that which was made in the case under consideration. It is a full authority to show that, in the opinion always held by the American Government, a case like that of Thomas Nash is a case for Executive and not Judicial decision.

The clause in the Constitution which declares that "the trial of all crimes, except in cases of impeachment, shall be by jury," has also been relied on as operating on the case, and transferring the decision on a demand for the delivery of an individual from the Executive to the Judicial department.

But certainly this clause in the Constitution of the United States cannot be thought obligatory on, and for the benefit of, the whole world. It is not designed to secure the rights of the people of Europe and Asia, or to direct and control proceedings against criminals throughout the universe. It can then be designed only to guide the proceedings of our own courts, and to prescribe the mode of punishing offences committed against the Government of the United States, and to which the jurisdiction of the nation may rightfully extend.

It has already been shown that the courts of the United States were incapable of trying the crime for which Thomas Nash was delivered up to justice. The question to be determined was, not how his crime should be tried and punished, but whether he should be delivered up to a foreign tribunal, which was alone capable of trying and punishing him. A provision for the trial of crimes in the courts of the United States is clearly not a provision for the performance of a national compact for the surrender to a foreign Government of an offender against that Government.

The clause of the Constitution declaring that the trial of all crimes shall be by jury, has never even been construed to extend to the trial of crimes committed in the land and naval forces of the United States. Had such a construction prevailed, it would most probably have prostrated the Constitution itself, with the liberties and the independence of the nation, before the first disciplined invader who should approach our shores. Necessity would have imperiously demanded the review and amendment of so unwise a provision. If, then, this clause does not extend to offences committed in the fleets and armies of the United States, how can it be construed to extend to

offences committed in the fleets and armies of Britain or of France, or of the Ottoman or Russian Empires?

The same argument applies to the observations on the seventh article of the amendments to the Constitution. That article relates only to trials in the courts of the United States, and not to the performance of a contract for the delivery of a murderer not triable in those courts.*

In this part of the argument, the gentleman from New York has presented a dilemma, of a very wonderful structure indeed. He says that the offence of Thomas Nash was either a crime or not a crime. If it was a crime, the Constitutional mode of punishment ought to have been observed; if it was not a crime, he ought not to have been delivered up to a foreign Government, where his punishment was inevitable.

It had escaped the observation of that gentleman, that if the murder committed by Thomas Nash was a crime, yet it was not a crime provided for by the Constitution, or triable in the courts of the United States; and that if it was not a crime, yet it is the precise case in which his surrender was stipulated by treaty. Of this extraordinary dilemma, then, the gentleman from New York is, himself, perfectly at liberty to retain either horn. He has chosen to consider it as a crime, and says it has been made a crime by treaty, and is punished by sending the offender out of the country.

The gentleman is incorrect in every part of his statement. Murder on board a British frigate is not a crime created by treaty. It would have been a crime of precisely the same magnitude had the treaty never been formed. It is not punished by sending the offender out of the United States. The experience of this unfortunate criminal, who was hung and gibbeted, evinced to him that the punishment of his crime was of a much more serious nature than mere banishment from the United States.

The gentleman from Pennsylvania and the gentleman from Virginia have both contended that this was a case proper for the decision of the courts, because points of law occurred, and points of law must have been decided in its determination.

The points of law which must have been decided, are stated by the gentleman from Pennsylvania to be, first, a question whether the offence was committed within the British jurisdiction; and, secondly, whether the crime charged was comprehended within the treaty.

It is true, sir, these points of law must have occurred, and must have been decided; but it by no means follows that they could only have been decided in court. A variety of legal questions must present themselves in the performance of every part of Executive duty, but these questions are not therefore to be decided in court. Whether a patent for land shall issue or not is always a question of law, but not a question which must necessarily be carried into court. The gentleman from Pennsylvania seems to have permitted himself to have been misled by the misrepresentation of the

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Constitution made in the resolutions of the gentleman from New York; and, in consequence of being so misled, his observations have the appearance of endeavoring to fit the Constitution to his arguments, instead of adapting his arguments to the Constitution.

When the gentleman has proved that these are questions of law, and that they must have been decided by the President, he has not advanced a single step towards proving that they were improper for Executive decision. The question whether vessels captured within three miles of the American coast, or by privateers fitted out in the American ports, were legally captured or not, and whether the American Government was bound to restore them, if in its power, were questions of law; but they were questions of political law, proper to be decided, and they were decided by the Executive, and not by the courts.

The *casus fœderis* of the guaranty was a question of law, but no man could have hazarded the opinion that such a question must be carried into court, and can only be there decided. So the *casus fœderis*, under the twenty-seventh article of the treaty with Great Britain, is a question of law, but of political law. The question to be decided is, whether the particular case proposed be one in which the nation has bound itself to act, and this is a question depending on principles never submitted to courts.

If a murder should be committed within the United States, and the murderer should seek an asylum in Britain, the question whether the *casus fœderis* of the twenty-seventh article had occurred, so that his delivery ought to be demanded, would be a question of law, but no man would say it was a question which ought to be decided in the courts.

When, therefore, the gentleman from Pennsylvania has established, that in delivering up Thomas Nash, points of law were decided by the President, he has established a position which in no degree whatever aids his argument.

The case was in its nature a national demand made upon the nation. The parties were the two nations. They cannot come into court to litigate their claims, nor can a court decide on them. Of consequence, the demand is not a case for judicial cognizance.

The President is the sole organ of the nation in its external relations, and its sole representative with foreign nations. Of consequence, the demand of a foreign nation can only be made on him.

He possesses the whole Executive power. He holds and directs the force of the nation. Of consequence, any act to be performed by the force of the nation is to be performed through him.

He is charged to execute the laws. A treaty is declared to be a law. He must then execute a treaty, where he, and he alone, possesses the means of executing it.

The treaty, which is a law, enjoins the performance of a particular object. The person who is to perform this object is marked out by the Con-

stitution, since the person is named who conducts the foreign intercourse, and is to take care that the laws be faithfully executed. The means by which it is to be performed, the force of the nation, are in the hands of this person. Ought not this person to perform the object, although the particular mode of using the means has not been prescribed? Congress, unquestionably, may prescribe the mode, and Congress may devolve on others the whole execution of the contract; but, till this be done, it seems the duty of the Executive department to execute the contract by any means it possesses.

The gentleman from Pennsylvania contends that, although this should be properly an Executive duty, yet it cannot be performed until Congress shall direct the mode of performance. He says that, although the jurisdiction of the courts is extended by the Constitution to all cases of admiralty and maritime jurisdiction, yet if the courts had been created without any express assignment of jurisdiction, they could not have taken cognizance of cases expressly allotted to them by the Constitution. The Executive, he says, can, no more than courts, supply a legislative omission.

It is not admitted that, in the case stated, courts could not have taken jurisdiction. The contrary is believed to have been the correct opinion. And although the Executive cannot supply a total Legislative omission, yet it is not admitted or believed that there is such a total omission in this case.

The treaty, stipulating that a murderer shall be delivered up to justice, is as obligatory as an act of Congress making the same declaration. If, then, there was an act of Congress in the words of the treaty, declaring that a person who had committed murder within the jurisdiction of Britain, and sought an asylum within the territory of the United States, should be delivered up by the United States, on the demand of His Britannic Majesty, and such evidence of his criminality, as would have justified his commitment for trial, had the offence been here committed; could the President, who is bound to execute the laws, have justified the refusal to deliver up the criminal, by saying, that the Legislature had totally omitted to provide for the case?

The Executive is not only the Constitutional department, but seems to be the proper department to which the power in question may most wisely and most safely be confided.

The department which is entrusted with the whole foreign intercourse of the nation, with the negotiation of all its treaties, with the power of demanding a reciprocal performance of the article, which is accountable to the nation for the violation of its engagements with foreign nations, and for the consequences resulting from such violation, seems the proper department to be entrusted with the execution of a national contract like that under consideration.

If, at any time, policy may temper the strict execution of the contract, where may that political discretion be placed so safely as in the department whose duty it is to understand precisely the

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state of the political intercourse and connexion between the United States and foreign nations, to understand the manner in which the particular stipulation is explained and performed by foreign nations, and to understand completely the state of the Union?

This department, too, independent of judicial aid, which may, perhaps, in some instances, be called in, is furnished with a great law officer, whose duty it is to understand and to advise when the *casus fœderis* occurs. And if the President should cause to be arrested under the treaty an individual who was so circumstanced as not to be properly the object of such an arrest, he may perhaps bring the question of the legality of his arrest before a judge, by a writ of habeas corpus.

It is then demonstrated, that, according to the principles of the American Government, the question whether the nation has or has not bound itself to deliver up any individual, charged with having committed murder or forgery within the jurisdiction of Britain, is a question the power to decide which rests alone with the Executive department.

It remains to inquire whether, in exercising this power, and in performing the duty it enjoins, the President has committed an unauthorized and dangerous interference with judicial decisions.

That Thomas Nash was committed originally at the instance of the British Consul at Charleston, not for trial in the American courts, but for the purpose of being delivered up to justice in conformity with the treaty between the two nations, has been already so ably argued by the gentleman from Delaware, that nothing further can be added to that point. He would, therefore, Mr. MARSHALL said, consider the case as if Nash, instead of having been committed for trial. Admitting even this to have been the fact, the conclusions which have been drawn from it were by no means warranted.

Gentlemen had considered it as an offence against judicial authority, and a violation of judicial rights to withdraw from their sentence a criminal against whom a prosecution had been commenced. They had treated the subject as if it was the privilege of courts to condemn to death the guilty wretch arraigned at their bar, and that to intercept the judgment was to violate the privilege. Nothing can be more incorrect than this view of the case. It is not the privilege, it is the sad duty of courts to administer criminal judgment. It is a duty to be performed at the demand of the nation, and with which the nation has a right to dispense. If judgment of death is to be pronounced, it must be at the prosecution of the nation, and the nation may at will stop that prosecution. In this respect the President expresses constitutionally the will of the nation; and may rightfully, as was done in the case at Trenton, enter a *nolle prosequi*, or direct that the criminal be prosecuted no farther. This is no interference with judicial decisions, nor any invasion of the province of a court. It is the exercise of an indubitable and a Constitutional power. Had the President directed the Judge at Charleston to decide for or against his own jurisdiction, to con-

demn or acquit the prisoner, this would have been a dangerous interference with judicial decisions, and ought to have been resisted. But no such direction has been given, nor any such decision been required. If the President determined that Thomas Nash ought to have been delivered up to the British Government for a murder committed on board a British frigate, provided evidence of the fact was adduced, it was a question which duty obliged him to determine, and which he determined rightly. If, in consequence of this determination, he arrested the proceedings of a court on a national prosecution, he had a right to arrest and to stop them, and the exercise of this right was a necessary consequence of the determination of the principal question. In conforming to this decision, the court has left open the question of its jurisdiction. Should another prosecution of the same sort be commenced, which should not be suspended but continued by the Executive, the case of Thomas Nash would not bind as a precedent against the jurisdiction of the court. If it should even prove that, in the opinion of the Executive, a murder committed on board a foreign fleet was not within the jurisdiction of the court, it would prove nothing more; and though this opinion might rightfully induce the Executive to exercise its power over the prosecution, yet if the prosecution was continued, it would have no influence with the court in deciding on its jurisdiction.

Taking the fact, then, even to be as the gentlemen in support of the resolutions would state it, the fact cannot avail them.

It is to be remembered, too, that in the case stated to the President, the Judge himself appears to have considered it as proper for Executive decision, and to have wished that decision. The President and Judge seem to have entertained, on this subject, the same opinion, and in consequence of the opinion of the Judge, the application was made to the President.

It has then been demonstrated—

1st. That the case of Thomas Nash, as stated to the President, was completely within the twenty-seventh article of the treaty between the United States and Great Britain.

2d. That this question was proper for Executive, and not for Judicial decision; and,

3d. That in deciding it, the President is not chargeable with an interference with Judicial decisions.

After trespassing so long, Mr. MARSHALL said, on the patience of the House, in arguing what had appeared to him to be the material points growing out of the resolutions, he regretted the necessity of detaining them still longer for the purpose of noticing an observation which appeared not to be considered by the gentleman who made it as belonging to the argument.

The subject introduced by this observation, however, was so calculated to interest the public feelings, that he must be excused for stating his opinion on it.

The gentleman from Pennsylvania had said that an impressed American seaman, who should

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commit homicide for the purpose of liberating himself from the vessel in which he was confined, ought not to be given up as a murderer. In this, Mr. M. said, he concurred entirely with that gentleman. He believed the opinion to be unquestionably correct, as were the reasons that gentleman had given in support of it. He had never heard any American avow a contrary sentiment, nor did he believe a contrary sentiment could find a place in the bosom of any American. He could not pretend, and did not pretend to know the opinion of the Executive on this subject, because he had never heard the opinions of that department; but he felt the most perfect conviction, founded on the general conduct of the Government, that it could never surrender an impressed American to the nation which, in making the impressment, had committed a national injury.

This belief was in no degree shaken by the conduct of the Executive in this particular case.

In his own mind, it was a sufficient defence of the President from an imputation of this kind, that the fact of Thomas Nash being an impressed American was obviously not contemplated by him in the decision he made on the principles of the case. Consequently, if a new circumstance occurred, which would essentially change the case decided by the President, the Judge ought not to have acted under that decision, but the new circumstance ought to have been stated. Satisfactory as this defence might appear, he should not resort to it, because to some it might seem a subterfuge. He defended the conduct of the President on other and still stronger ground.

The President had decided that a murder committed on board a British frigate on the high seas, was within the jurisdiction of that nation, and consequently within the twenty-seventh article of its treaty with the United States. He therefore directed Thomas Nash to be delivered to the British Minister, if satisfactory evidence of the murder should be adduced. The sufficiency of the evidence was submitted entirely to the Judge.

If Thomas Nash had committed a murder, the decision was that he should be surrendered to the British Minister; but if he had not committed a murder, he was not to be surrendered.

Had Thomas Nash been an impressed American, the homicide on board the *Hermione* would, most certainly, not have been a murder.

The act of impressing an American is an act of lawless violence. The confinement on board a vessel is a continuation of the violence, and an additional outrage. Death committed within the United States, in resisting such violence, would not have been murder, and the person giving the wound could not have been treated as a murderer. Thomas Nash was only to have been delivered up to justice on such evidence as, had the fact been committed within the United States, would have been sufficient to have induced his commitment and trial for murder. Of consequence, the decision of the President was so expressed as to exclude the case of an impressed American liberating himself by homicide. He concluded with observing, that he had already too long availed

himself of the indulgence of the House to venture farther on that indulgence by recapitulating or reinforcing the arguments which had already been urged.

When Mr. MARSHALL had concluded, Mr. DANA rose and spoke against the resolutions.

An adjournment was then called for and carried—yeas 50, nays 48.

SATURDAY, March 8.

CASE OF JONATHAN ROBBINS.

The House resumed the consideration of the report made on Thursday, last, by the Committee of the whole House to whom was referred the Message of the President of the United States of the seventh ultimo, containing their disagreement to the motion referred to them on the twentieth ultimo; and the said motion being read, in the words following, to wit:

“*Resolved*, That it appears to this House that a person calling himself Jonathan Robbins, and claiming to be a citizen of the United States, impressed on board a British ship-of-war, was committed for trial in one of the Courts of the United States, for the alleged crime of piracy and murder committed on the high seas, on board the British frigate *Hermione*. That a requisition being, subsequent to such commitment, made by the British Minister to the Executive of the United States, for the delivery of the said person (under the name of Thomas Nash) as a fugitive under the twenty-seventh article of the treaty with Great Britain, the President of the United States did, by a letter written from the Department of State, to the Judge who committed the said person for trial, officially declare his opinion to the said Judge that he ‘considered an offence committed on board a public ship-of-war on the high seas, to have been committed within the jurisdiction of the nation to whom the ship belongs;’ and, in consequence of such opinion and construction, did advise and request the said Judge to deliver up the person so claimed, to the agent of Great Britain who should appear to receive him—provided, only, that the stipulated evidence of his criminality should be produced. That, in compliance with such advice and request of the President of the United States, the said person, so committed for trial, was, by the Judge of the District Court of South Carolina, without any presentment or trial by jury, or any investigation of his claim to be a citizen of the United States, delivered up to an officer of his Britannic Majesty, and afterwards tried by a court martial and executed, on a charge of mutiny and murder.

“*Resolved*, That, inasmuch as the Constitution of the United States declares that the Judicial power shall extend to all questions arising under the Constitution, laws, and treaties of the United States, and to all cases of admiralty and maritime jurisdiction; and, also, that the trial of all crimes, except in cases of impeachment, shall be by jury, and such trial shall be held in the State where such crimes shall have been committed, but when not committed within any State, then at such place or places as Congress may by law have directed: And, inasmuch as it is directed by law ‘that the offence of murder, committed on the high seas, shall be deemed piracy and murder, and that the trial of all crimes committed on the high seas, or in any place out of the jurisdiction of any particular State, shall be in the district where the offender is apprehended, or into which he

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may be first brought.' Therefore, the several questions, whether the alleged crime of piracy and murder was committed within the exclusive jurisdiction of Great Britain; whether it comes within the purview of the said twenty-seventh article; and whether a person, stating that he was an American citizen, and had committed the act of which he was accused in attempting to regain his liberty from illegal imprisonment, ought to be delivered up without any investigation of his claim to citizenship, or inquiry into the facts alleged in his defence, are all matters exclusively of judicial inquiry, as arising from treaties, laws, constitutional provisions, and cases of admiralty and maritime jurisdiction:

"That the decision of those questions by the President of the United States, against the jurisdiction of the Courts of the United States, in a case where those courts had already assumed and exercised jurisdiction, and his advice and request to the Judge of the District Court that the person thus charged should be delivered up, provided only such evidence of his criminality should be produced as would justify his apprehension and commitment for trial, are a dangerous interference of the Executive with Judicial decisions; and that the compliance with such advice and request, on the part of the Judge of the District Court of South Carolina, is a sacrifice of the Constitutional independence of the Judicial power and exposes the administration thereof to suspicion and reproach."

Mr. NICHOLAS spoke in answer to Mr. MARSHALL.

The question was then taken that the House do agree with the Committee of the Whole in their disagreement to the same, and resolved in the affirmative—yeas 61, nays 35, as follows:

YEAS—Willis Alston, George Baer, Bailey Bartlett, James A. Bayard, John Bird, John Brown, William Cooper, William Craik, John Davenport, Franklin Davenport, Thomas T. Davis, John Dennis, George Dent, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Samuel Goode, Chauncey Goodrich, Elizur Goodrich, William Gordon, Edwin Gray, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Archibald Henderson, William H. Hill, James H. Inlay, James Jones, John Wilkes Kittera, Henry Lee, Silas Lee, Samuel Lyman, James Linn, John Marshall, Abraham Nott, Harrison G. Otis, Robert Page, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, John Rutledge, jun., Samuel Sewall, James Sheafe, William Shepard, Richard Dobbs Spaight, David Stone, Benjamin Talliaferro, George Thatcher, John Chew Thomas, Richard Thomas, Joseph B. Varnum, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

NAYS—Theodorus Bailey, Phanuel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, John Condit, Joseph Eggleston, Lucas Elmen-dorf, John Fowler, Albert Gallatin, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, George Jackson, Aaron Kitchell, Michael Leib, Matthew Lyon, Edward Livingston, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, John Randolph, John Smiley, John Smith, Samuel Smith, Thomas Sumter, John Thomson, Abram Trigg, John Trigg, Philip Van Cortlandt, and Robert Williams.

A motion was made to adjourn. Mr. MACON hoped the House would sit and decide the resolution proposed by the gentleman from Delaware, so as to have done with the business, and not to

enter on another week with it; however, 54 rising for the adjournment, it was carried.

MONDAY, March 10.

The House went into Committee of the Whole on the bill for the relief of Campbell Smith, reported their agreement to the bill without amendment, and the bill was ordered to be read the third time to-morrow.

The House resolved itself into a Committee of the Whole on the report of the committee to whom was referred, on the thirteenth of January last, a petition of Cato West and others, inhabitants of the Mississippi Territory, complaining of the political system by which the said Territory is governed; and, after some time spent therein, the Committee rose and reported progress.

Ordered, That the Committee of the Whole House be discharged from the further consideration of the said report, and that the same be recommended to Mr. CLAIBORNE, Mr. GRISWOLD, Mr. HENDERSON, Mr. NOTT, and Mr. BARTLETT.

On a motion made and seconded that the House do come to the following resolutions, to wit:

Resolved, That, from and after the organization of the Mississippi Territory, the Governor shall nominate, and, by and with the advice and consent of the Legislative Council, shall appoint, all officers, both civil and military, of the Territory, whose appointments are not particularly vested in Congress by the ordinance; provided, that the Governor shall have power to fill up all vacancies which may happen during the recess of the Legislative Council, by granting commissions, which shall expire at the end of their next session.

Resolved, That every bill which shall have passed the House of Representatives and the Legislative Council, shall, before it become a law, be presented to the Governor of the Territory: if he approve, he shall sign it; but, if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections, at large, on their journals, and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered; and if approved by two-thirds of that House, it shall become a law. If any bill shall not be returned by the Governor within six days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the General Assembly, by their adjournment, prevent its return; in which case, it shall not be a law.

Resolved, That every order, resolution, or vote, to which the concurrence of the Legislative Council and House of Representatives may be necessary, except on a question of adjournment, shall be presented to the Governor of the Territory, and, before the same shall take effect, shall be approved by him; or, being disapproved by him, shall be re-passed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

Resolved, That the General Assembly shall meet at least once in every year, and such meeting shall be on the — day of —, unless they shall, by law, appoint a different day: *Provided*, that the Governor shall have power, on extraordinary occasions, to convene both Houses of the General Assembly, or either of them.

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Resolved, That neither House, during the session of the General Assembly, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

Ordered, That the said motion be referred to the committee last mentioned.

CASE OF JONATHAN ROBBINS.

Mr. BAYARD moved that the Committee of the whole House, to whom was referred the Message of the President relative to Thomas Nash, alias Jonathan Robbins, and a resolution submitted by himself to the House, approbating the conduct of the President, and referred to that Committee, be discharged from the further consideration thereof.

A long debate arose upon this motion, in which Messrs. RANDOLPH, DAVIS, JONES, NICHOLAS, LIVINGSTON, and EGGLESTON, spoke against it—and Messrs. BAYARD, BIRD, OTIS, KITTERA, VARNUM, RUTLEDGE, EDMOND, SHEPARD, and H. LEE, in favor of it; when the question was taken by yeas and nays, and carried in the affirmative—yeas 62, nays 35, as follows:

YEAS—George Baer, Bailey Bartlett, James A. Bayard, John Bird, Jonathan Brace, John Brown, Christopher G. Champlin, William C. C. Claiborne, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, George Dent, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Samuel Goode, Chauncey Goodrich, Elizur Goodrich, William Gordon, Edwin Gray, Andrew Gregg, Roger Griswold, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Archibald Henderson, William H. Hill, Benjamin Hugler, James H. Imlay, Aaron Kitchell, John Wilkes Kittera, Henry Lee, Silas Lee, Samuel Lyman, James Linn, Abraham Nott, Harrison G. Otis, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, John Rutledge, Jr., Samuel Sewall, James Sheafe, William Shepard, Samuel Smith, Richard Dobbs Spaight, George Thatcher, John Chew Thomas, John Thompson, Joseph B. Varnum, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

NAYS—Willis Alston, Phaniel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, John Condit, Thomas T. Davis, John Dawson, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Gallatin, Joseph Heister, George Jackson, James Jones, Michael Leib, Matthew Lyon, Edward Livingston, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, John Randolph, John Smilie, John Smith, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, Abram Trigg, John Trigg, Philip Van Cortlandt, and Robert Williams.

POST ROADS.

Mr. H. LEE moved the following resolution, which was ordered to lie on the table:

Resolved, That a committee be appointed to inquire, and report by bill or otherwise, the expediency of making further provisions, by law, to facilitate the communication between different parts of the United States, by means of post roads.

Mr. HARPER also laid the following resolutions on the table.

Resolved, That for the more convenient, certain, and expeditious conveyance of the mails of the United States, on the main post road, leading from Portland in Maine, to Augusta in Georgia, it is expedient to make provision for promoting and aiding the establishment of turnpike, on the said road, and for rendering the course thereof more direct, between the places though which it is, or shall be, directed by law to pass; and that the surplus revenue of the Post Office ought to be set apart as a fund for those purposes.

Resolved, That the said fund ought to be vested in a board, under the direction of the President of the United States, and to be composed of the Secretaries of the Executive departments of the United States, and the Attorney General; and that when any company shall undertake to make a good turnpike road on any part of the said post road, and shall apply to the said board, stating their object, plan, and means, and shall offer good and sufficient security for the accomplishment of the undertaking, within a reasonable time, to be fixed by the said board, and for refunding any money to be advanced to them by the said board in case the said undertaking should not be so accomplished, the said board ought to be authorized and empowered, with the approbation of the President of the United States, to grant an act of incorporation to the said company, for the purposes aforesaid, and under certain conditions, terms, and restrictions, to be established by law; and to subscribe from the said fund and on behalf of the United States, for any number of shares of the said company, not exceeding one-third of the whole number: *Provided*, That the payments to be made on account of the said subscription, shall be made in such portions, and at such times, as the said board shall stipulate, and may be withheld by the said board, at its discretion, whenever the said company shall fail to make its stipulated payments.

Resolved, That whenever two or more companies shall apply as aforesaid, the preference ought to be given to that which shall apply for the part of the said post road nearest to the city of Washington in either direction: *Provided*, that the plan of such company shall appear to the President of the United States, to be, in other respects, equally worthy of adoption with those of its competitors.

Resolved, That if there should not be in any one year, sufficient applications as aforesaid to employ the whole of said funds, the surplus thereof ought to be applied, in manner aforesaid, to any other post road of the United States, respecting which application in manner aforesaid, shall be made; or, at the discretion of the President of the United States, to be carried to the fund for the next year.

Resolved, that the tolls and dividends to be derived from the shares which shall be subscribed for as aforesaid, ought to be received at the Treasury of the United States, and there accounted for, and added annually to the aforesaid fund, to be applied in manner aforesaid, to the purposes thereof.

Resolved, That when the said main post road shall be completed, the fund aforesaid ought to be applied in manner aforesaid, to the construction of turnpike roads on any other post road in the United States, and of toll bridges on such main or other post road.

The House went into Committee of the Whole, on the bill to alter and establish sundry post roads. After some time spent therein, the Committee rose, reported progress and asked leave to sit again.

H. OF R.

Marine Corps.

MARCH, 1800.

TUESDAY, March 11.

The House then went into Committee on the bill to alter and establish certain post roads; several amendments were made thereto, with which the House concurred; and the bill was ordered to be engrossed for a third reading.

An engrossed bill for the relief of Campbell Smith was read the third time, and passed.

Mr. HARPER, from the committee to whom were referred so much of the Speech of the President at the commencement of the present session as relates to the revision and amendment of the Judiciary system, reported a bill to provide for the better establishment and regulation of the Courts of the United States.

Mr. D. FOSTER, from the Committee of Claims, to whom were referred the several petitions of Thomas Frothingham, of Massachusetts; of sundry citizens and inhabitants of the counties of Washington and Allegany; of Andrew Finley and others, citizens of Westmoreland county; and the memorial of sundry inhabitants of the four Western counties of Pennsylvania; made a report, which was read, and ordered to be committed to a Committee of the Whole House on Monday next.

WEDNESDAY, March 12.

An engrossed bill to alter and establish certain post roads, was read and passed.

MARINE CORPS.

The House then went into Committee of the Whole on a bill for the government of the Marine Corps, while on shore.

[The reported bill contained a section providing that, if any marine officer or private should commit any offence against the person or property of any citizen, while on shore, that is punishable by the known laws of the land, the commanding officer or officers of every company or party, is required to use his utmost endeavors to deliver up such accused person to the civil magistrate, upon demand made by such magistrate, and shall also aid and assist the officers of justice in apprehending such offender, in order to bring him to trial—any officer refusing as aforesaid, on application being made to him by a civil officer to deliver or aid in the delivery of such person to the civil magistrate, every such officers so offending, *and being thereof convicted in any court of law in the county where the fact was committed, by the oath of two credible witnesses*, shall be cashiered and forever afterwards incapacitated to hold any military commission in the service of the United States.]

This, so far as related to a trial before a court of law, was moved and carried in Committee of the Whole to be struck out. When the question came up in the House to agree with the report of the Committee of the Whole to strike out the words in *italic*, a warm and long debate ensued; the question to agree was taken by yeas and nays, and carried in the affirmative—yeas 47, nays 44, as follows:

YEAS—Bailey Bartlett, Jonathan Brace, John Brown, Christopher G. Champlin, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, William Gordon, Edwin Gray, Roger Griswold, William Barry Grove, Archibald Henderson, Benjamin Huger, James H. Imlay, John Wilkes Kittera, Silas Lee, Samuel Lyman, John Marshall, Harrison G. Otis, Thomas Pinckney Jonas Platt, Leven Powell, John Reed, John Rutledge, jr., Samuel Sewall, James Sheafe, William Shepard, Richard Dobbs Spaight, Benjamin Taliaferro, George Thatcher, John Chew Thomas, Richard Thomas, Joseph B. Varnum, Peleg Wadsworth, Robert Waln, and Lemuel Williams.

NAYS—Willis Alston, Theodorus Bailey, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Gallatin, Samuel Goode, Andrew Gregg, John A. Hanna, Joseph Heister, William H. Hill, George Jackson, James Jones, Aaron Kitchell, Henry Lee, Michael Leib, Matthew Lyon, James Linn, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, Abraham Nott, Josiah Parker, John Randolph, John Smilie, John Smith, Richard Stanford, David Stone, Thomas Sumter, John Thompson, Abraham Trigg, John Trigg, and Robert Williams.

The further consideration of the bill was then postponed till to-morrow.

THURSDAY, March 13.

Mr. CLAIBORNE, from the select committee to whom was recommended the petition of Cato West and others, of the Mississippi Territory, together with sundry resolutions, abridging the power of the Governor of that Territory—made report that it would be inexpedient to adopt the said resolutions.

The report was read a first and second time and committed for to-morrow.

Mr. GRISWOLD, from the Committee of Revision and Unfinished Business, to whom was referred, on the seventh instant, the amendment of the Senate to the bill declaring the assent of Congress to certain acts of the States of Maryland and Georgia, made a report; which was read and considered: Whereupon,

Ordered, That this House doth agree to the amendment of the Senate to the said bill, with an amendment.

A message from the Senate, informed the House that the Senate have passed the bill, entitled "An act to allow a drawback of duties on goods exported to New Orleans, and therein to amend the act, entitled 'An act to regulate the collection of duties on imports and tonnage,' with amendments; to which they desire the concurrence of this House.

The House resumed the consideration of the bill depending yesterday, for the government of the Marine Corps, while on shore; Whereupon,

Ordered, That the said bill be re-committed to Mr. PARKER, Mr. OTIS, Mr. RUTLEDGE, Mr. CRAIK, and Mr. CHAMPLIN.

MARCH, 1800.

Mississippi Territory, &c.

H. OF R.

Mr. GRISWOLD, from the Committee of Revision and Unfinished Business, reported a bill providing the means of intercourse between the United States and foreign nations; which was read a first and second time, and committed for to-morrow.

Mr. MARSHALL presented a petition of William Tazewell, Secretary to Mr. Gerry, while Envoy at Paris, praying that the Secretary of State may be authorized to liquidate and settle his accounts for travelling expenses from Paris to Holland and London, in an official capacity, and for sundry articles plundered from him on his passage to this country, having been captured and carried into Spain. Referred to a select committee.

The bill for the government of the Marine Corps, while on shore, was, on motion of Mr. OTIS, re-committed to a select committee.

The House went into Committee of the Whole on the bill for removing any military force of the United States from the places of holding elections. After amending the bill, it was agreed to, and ordered to be engrossed and read a third time to-morrow.

The House went into Committee of the Whole on the bill to alter the times of holding the District Courts in North Carolina; which was agreed to without amendment, and ordered to be engrossed and read a third time to-morrow.

FRIDAY, March 14.

Mr. HARRISON, from the select committee appointed on the subject of public lands, reported a bill to amend the act, entitled an act to provide for selling the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of the Kentucky river; which was read a first and second time, and recommitted for Monday next.

The bill to fix the compensation of the Paymaster General, and of the Assistant to the Adjutant General, was taken up in Committee of the Whole, agreed to, and ordered to be engrossed and read a third time on Monday next.

On motion of Mr. S. SMITH, the House came to the following resolution.

Resolved, That a committee be appointed to inquire into the expediency of authorizing the Secretary of the Treasury to remit any forfeitures which shall occur, or may have occurred, under the laws of the United States prohibiting the exportation of arms and ammunition, under the same provision which the Secretary is authorized to remit forfeitures incurred, under the revenue laws; and that they be authorized to report by bill or otherwise.

MISSISSIPPI TERRITORY.

The House, resolved itself into a Committee of the Whole on the report of the committee to whom was yesterday recommitted their report on the petition of Cato West and others, inhabitants of the Mississippi Territory; and, after some time spent therein, the Committee rose and reported several resolutions thereupon; which were severally twice read, and agreed to by the House, as follows:

Resolved, That so much of the ordinance for the government of the Territory of the United States Northwest of the river Ohio, as relates to the organization of a General Assembly therein, and prescribes the powers thereof, shall forthwith operate, and be in force in the Mississippi Territory: *Provided*, That, until the number of free male inhabitants, of full age, in the said Territory, shall amount to five thousand, there shall not be returned to the General Assembly more than nine Representatives.

Resolved, That, until the number of free male inhabitants, of full age, in the Mississippi Territory, shall amount to five thousand, the county of Adams shall be entitled to choose four Representatives to the General Assembly; the county of Pickering, four; and the inhabitants of the Tensaw and Tombigby settlements, one.

Resolved, That the first election for Representatives to the General Assembly, shall be on the — day of —, and that all subsequent elections shall be regulated by the Legislature.

Resolved, That it shall be the duty of the Governor of the Mississippi Territory, to cause the said election to be holden on the day aforesaid, at the most convenient place in the counties and settlements aforesaid, and to nominate a proper officer or officers to preside at and conduct the same, and to return to him the names of the persons who may have been duly elected.

Resolved, That the Representatives shall be convened by the Governor, at the town of Natchez, on the — day of —.

Resolved, That, so soon as the number of free male inhabitants, of full age, shall amount to, or exceed five thousand, the number of Representatives to the General Assembly shall be determined, and the apportionment made in the way prescribed in the ordinance.

Resolved, That nothing in these resolutions contained shall extend, or be construed to extend to, or affect the right of Georgia to the territory in question, or any part thereof.

Ordered, That a bill or bills be brought in, pursuant to the said resolutions; and that Mr. CLAIRBORNE, Mr. GRISWOLD, Mr. HENDERSON, Mr. NOTT, and Mr. BARTLETT, do prepare and bring in the same.

SUNDRY BILLS.

The bill for removing troops from places of holding elections, was read a third time and passed; and the title declared to be "An act to prevent the interference of any military force in certain elections."

The bill entitled "An act to alter the times of holding the District Court in North Carolina," was read a third time and passed.

The House took up the amendment of the Senate to the bill allowing a drawback of duties on goods exported to New Orleans, and therein to amend the act regulating the collection of duties on imports and tonnage," and disagreed to the same, only five members voting in favor of it.

[The Senate proposed to insert "from and after the tenth day of April next," thereby fixing the operation of the act from that period.]

COLLECTION OF THE REVENUE.

Mr. HARPER said it had been represented to him, that there was considerable defect in the law requiring the payment of money from the collectors

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Indian Intercourse, &c.

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of the revenue into the Treasury; that the Secretary felt himself very much inconvenienced, and that there existed no sufficient compulsory means to enforce payment; he therefore moved the following resolution.

Resolved, That a committee be appointed to inquire and report by bill or otherwise, whether any and what further provisions are necessary to be made by law, for compelling the receivers of public money to account for and pay over the same.

This resolution was agreed to.

INDIAN INTERCOURSE.

Mr. JONES said the law for regulating intercourse with the Indian tribes, had been found to operate very oppressively on individuals in the State of Georgia, and expensively to the United States, as the trial of offenders under the act must be had before one of the Judges of the Supreme Court of Georgia, who resided at the distance of one hundred and fifty miles from the frontiers, where offences under this act are committed; and must be conveyed for such trial under an escort of United States troops, however trivial and harmless the offence may be, and slight the punishment prescribed for it. Supposing, as he did, that the inferior courts were competent to execute the provisions of the act, Mr. J. moved the following resolution, with a view to that effect, viz:

Resolved, That a committee be appointed to inquire and report whether any, and, if any, what, alterations are necessary in the law for regulating trade and intercourse with the Indian tribes, and for preserving peace on the frontiers; and that they have leave to report by bill or otherwise.

The resolution was ordered to lie on the table.

The House went into Committee of the Whole on the report of the select committee, appointed to consider and report on the expediency of amending the Judiciary system of the Northwestern Territory; and also on the expediency of dividing said Territory into two distinct and separate governments—when the resolution reported by the committee recommending a division of the Territory, was agreed to. The Committee then rose, and upon the question, will the House agree with the Committee in their agreement to the said resolution; a long debate ensued, and the House adjourned without taking the question upon it.

AMENDMENT TO THE CONSTITUTION.

Mr. NICHOLAS submitted the following resolution, viz:

"Resolved, by the Senate and House of Representatives of the United States, two-thirds of both Houses concurring, That the following articles be proposed to the Legislatures of the several States, as amendments to the Constitution of the United States:

"That, after the third day of March, in the year one thousand eight hundred and one, the choice of Electors of President and Vice President shall be made by dividing each State into a number of districts equal to the number of Electors, to be chosen in such States, and by the persons in each of those districts who shall have the qualifications requisite for electors of the most numerous branch of the Legislature of such State choosing one Elector in the manner which the Legislature thereof shall prescribe.

"That the election of Representatives to Congress, who are to serve after the third day of March, in the year one thousand eight hundred and three, shall be by dividing each State into a number of districts equal to the number of Representatives to which such State shall be entitled, and by the people within each of those districts who shall have the qualifications requisite for electors of the most numerous branch of the Legislature of such States choosing one Representative in the manner which the Legislature thereof shall prescribe."

The resolution was ordered to lie on the table.

PATENTS FOR USEFUL INVENTIONS.

The House went into a Committee of the Whole on the bill to extend the privilege of obtaining patents for useful discoveries and inventions, to certain persons therein mentioned, and to enlarge and define the penalties for violating the rights of patentees; when

Mr. GRISWOLD moved to strike out the first section of the bill, which provides that an alien, after due residence, shall be entitled to patents for useful discoveries and inventions, &c.

MESSRS. HARPER, SMITH, RUTLEDGE, and OTIS, opposed this motion, and Messrs. KITTERA and GRISWOLD spoke in favor of it; and contended that foreigners might, under this section of the bill, obtain a complete monopoly of the whole American market. After some observations of Mr. OTIS, who wished an amendment might be introduced, which should provide that the patent to be granted to any alien should continue to his benefit during his residence in this country only, the Committee rose, reported progress, and obtained leave to sit again.

LAND WARRANT.

The House went into a Committee of the Whole on the report of the select committee on the petition of John Mountjoy, and the resolution reported by the committee, authorizing the proper officers to issue a land warrant to said Mountjoy, in lieu of one said to be lost. Messrs. D. FOSTER and MACON opposed it, and wished to make a general question whether all warrants lost or destroyed ought to be renewed.

Mr. GRISWOLD was of the same opinion, and moved that the Committee rise, for the purpose of having this petition, and all others of a similar nature referred to a select committee, with instructions to report on the expediency of passing a general law on the subject.

The Committee having rose, and leave being refused to sit again, the proposition of Mr. G. was adopted, and the Committee instructed by a resolution of the House, to inquire into the expediency of authorizing the Secretary of War to issue to the officers and soldiers of the Continental Army, warrants for bounty lands, which may have been obtained from the War Office by fraud, or may have been lost or destroyed.

MONDAY, March 17.

A petition of Mary Wooster, relict of the late Major General Wooster, was presented to the House and read, stating that her said husband, on entering into the service of his country, during

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Medal to Captain Truxtun.

H. OF R.

the late war with Great Britain, (in which he fell, in the year one thousand seven hundred and seventy-seven,) relinquished his half-pay as a British officer; and praying that an indemnification may be granted her for the loss of the same, or that she may receive the same justice which has been done to others in similar circumstances.

Ordered, That it be referred to the Committee of Claims.

An engrossed bill to fix the compensation to the Paymaster General and the Assistant to the Adjutant General was read and passed.

Mr. CLAIBORNE, from the committee appointed for that purpose, reported a bill supplementary to an act entitled an act to provide for the final settlement of the limits of the State of Georgia, and for authorizing the establishment of a Government in the Mississippi Territory; which was twice read and referred to a Committee of the whole House.

Mr. A. FOSTER proposed the following resolution:

"That a committee be appointed to inquire whether any, and, if any, what, alterations ought to be made in the bill passed the present session of Congress, entitled an act providing for the second census or enumeration of the inhabitants of the United States."

It was agreed to, and the committee appointed.

Mr. COOPER from the committee appointed on that subject, reported the following resolution:

"*Resolved*, That the President be authorized to employ an agent who shall be instructed to collect all the material information relative to a copper bed on the south side of Lake Superior; and to ascertain the Indian title to such land, in case it should be the wish of the United States Government to work a mine there; and also to inquire as to the terms upon which it may be obtained, and that a report be made thereof to Congress."

Referred to a Committee of the whole House.

A resolution proposed by Mr. JONES on Friday, relative to trade and intercourse with the Indians was taken up and agreed to, and five members appointed for that purpose.

A message from the Senate, informed the House that the Senate insist on their amendments disagreed to by this House to the bill, entitled "An act to allow a drawback of duties on goods exported to New Orleans, and therein to amend the act, entitled 'An act to regulate the collection of duties on imports and tonnage;' and ask a conference thereon.

MEDAL TO CAPTAIN TRUXTUN.

Mr. PARKER observed that information had been received of a very gallant action having occurred between a frigate of the United States of 38 guns, commanded by Commodore Truxtun, and a French vessel of 52 guns, which was extremely bloody, but valiant on the part of the United States commander. It was not usual to grant emoluments on account of any particular gallant action to our officers, but to give approbation was common and consistent. In other countries, he said, monuments had been erected to commemorate such splendid victories.

As a testimonial of the regard of Congress for the officers who so bravely supported the flag of

the United States, and to encourage similar acts of bravery, he would propose the following resolution:

Resolved, by the Senate and House of Representatives of the United States in Congress assembled, That a golden medal, emblematical of the late action between the United States frigate Constellation of 38 guns, and the French ship-of-war La Vengeance of 52 guns, be purchased under the Secretary of the Navy, and be presented to Captain Thomas Truxtun, in testimony of the high sense entertained by Congress of his gallantry and good conduct in the above engagement, wherein an example was exhibited by the captain, officers, sailors, and marines, honorable to the American name and instructive to its rising Navy.

The resolution was ordered to lie on the table.

LOAN OF MONEY.

The House then resolved itself into Committee on the bill to enable the President to borrow money for the public service.

This bill caused much debate, but at length passed through the Committee without amendment, and the question for engrossing was superseded by a motion to adjourn, which was carried.

TUESDAY, March 18.

The House proceeded to consider the message from the Senate, of yesterday, on the subject-matter of the amendments depending between the two Houses to the bill, entitled "An act for allowing a drawback of duties on goods exported to New Orleans, and therein to amend the act, entitled 'An act to regulate the collection of duties on imports and tonnage;'" Whereupon,

Resolved, That this House doth agree to the proposed conference; and that Mr. SEWALL, Mr. WALN, and Mr. SAMUEL SMITH, be appointed managers at the same on the part of this House.

Mr. S. SMITH, from the committee to whom was referred a resolution to inquire whether any, and what, further credit ought to be given on articles of produce imported into the United States from the West Indies, reported, that it would be inexpedient, at the present time, to extend the terms of credit given by law on said articles.

The report was concurred in.

Mr. OTIS, from the Committee of Defence, reported a bill for the regulation of public arsenals and magazines; which was read a first and second time, and committed for Thursday.

The bill to enable the President to borrow money for the public service was ordered to be read a third time to-morrow.

The House, in Committee of the Whole, resumed the consideration of the amendatory patent law, when Mr. GRISWOLD withdrew his motion to strike out the first section, upon Mr. HARPER's offering an amendment which obviated his objections, and the bill was agreed to as amended, and ordered to be read a third time to-morrow.

OFFICERS AND CREW OF THE CONSTELLATION.

Mr. PARKER moved that the unfinished business be postponed for the purpose of taking up the resolution which he yesterday laid on the

table, relative to the captain, officers, and crew of the *Constellation*; when

Mr. NICHOLSON said he wished it might not be taken into consideration until some official information was received upon the subject from the Secretary of the Navy, upon which resolutions can be grounded. In his opinion the resolution of the gentleman did not go far enough. It had been said, that a young officer had voluntarily lost his life, rather than shrink from his duty, which he thought ought to be noticed. He was in favor of giving his approbation of the conduct of the officers and crew in more general terms than the resolution on the table contemplated.

After some observations from Messrs. CHAMPLIN and HARPER, who were of the same opinion,

Mr. PARKER said, he did not suppose a doubt could exist upon this subject sufficient to require any further information than had been received through the medium of the newspapers. He had seen a letter in the possession of the Secretary of the Navy, from Captain Baker, of the Delaware, who had every opportunity of knowing the situation of the enemy's frigate, was in the same harbor, and, being a nautical man, was of course able to give a correct opinion on her then situation, and the evident marks of the bravery of her antagonist with whom she contended—this was sufficient to satisfy his mind.

If, said Mr. P., gentlemen think the resolution does not go far enough, there is no one who will more cheerfully concur in offering other testimonies of approbation than myself. With respect to the young officer,* whose gallantry and good conduct had been so highly spoken of, it was his intention to have brought forward a resolution for setting up his bust in a niche of the Capitol of the city of Washington.

Mr. P. concluded with observing that he had no objection to call for information from the Secretary of the Navy, and would therefore withdraw his motion.

Mr. PARKER then moved that the House come to the following resolution, viz :

Resolved, That the Secretary of the Navy be requested to lay before this House any information he may possess respecting the engagement which lately took place in the West Indies between the United States frigate *Constellation* and a French ship-of-war; and, also, respecting the conduct of James Jarvis, a midshipman on board the said frigate.

Mr. SMITH moved to strike out the words in *italic*, which created considerable debate; when

Mr. BIRD proposed to insert in lieu thereof the following words: "And also upon the conduct of any officer or other person on board said frigate who may have particularly signalized himself in the said action;" which Mr. B. supposed would meet the intention of the mover, and be less liable

to objection than the words proposed to be stricken out.

Mr. PARKER having consented to the modification, the resolution was agreed to.

LIMITS OF GEORGIA, &c.

The House went into a Committee of the Whole on the bill supplementary to the act entitled an act for an amicable settlement of the limits of the State of Georgia, and for authorizing the establishment of a Government in the Mississippi Territory.

Mr. CLAIBORNE moved two additional sections to the bill—one of which abrogates the power of the Governor of that Territory to prorogue the Legislature at his pleasure—upon which a very long debate ensued.

Both resolutions were finally agreed to, 52 members voting in favor of each of them. The Committee rose, and upon the question, Will the House concur in the report of the Committee in their agreement to said additional sections? it passed in the affirmative—yeas 54, nays 37, as follows:

YEAS—Willis Alston, Theodorus Bailey, John Bird, Phaniel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, Thomas T. Davis, John Dawson, John Dennis, George Dent, Joseph Dickson, Joseph Eggleston, Lucas Elmdorff, John Fowler, Albert Gallatin, Samuel Goode, Edwin Gray, Andrew Gregg, John A. Hanna, Thomas Hartley, Joseph Heister, William H. Hill, David Holmes, Benjamin Huger, George Jackson, James Jones, Aaron Kitchell, Michael Leib, Matthew Lyon, James Linn, Nathaniel Macon, Peter Muhlenberg, John Nicholas, Joseph H. Nicholson, Abraham Nott, Josiah Parker, John Randolph, John Smilie, John Smith, Samuel Smith, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

NAYS—George Baer, Bailey Bartlett, Jonathan Brace, John Brown, Christopher G. Champlin, William Craik, Samuel W. Dana, John Davenport, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, William Gordon, Roger Griswold, Robert Goodloe Harper, Archibald Henderson, James H. Imlay, Henry Lee, Silas Lee, Samuel Lyman, John Marshall, Harrison G. Otis, Thomas Pinckney, Jonas Platt, John Reed, Samuel Sewall, Wm. Shepard, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, and Lemuel Williams.

And the bill was ordered to be engrossed and read a third time to-morrow.

DIVISION OF NORTHWEST TERRITORY.

The House proceeded to consider the report of the Committee of the whole House, made the thirteenth instant, to whom was referred the report of the committee appointed to inquire whether any, and what, alterations are necessary to be made in the judicial establishment of the Territory Northwest of the Ohio, and into the expediency of dividing the said Territory into two distinct and separate governments; and the resolution reported from the Committee of the whole House being again read in the words following, to wit :

* Son of Mr. James Jarvis, of New York, and midshipman on board the *Constellation* in the engagement of the 1st of February, who was killed by the falling of the mast.

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Sundry Bills, &c.

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Resolved, That the Territory Northwest of the river Ohio be divided into two distinct and separate Governments, by a line beginning at the mouth of the Great Miami river, and running thence a north course until it intersects the boundary line between the United States and Canada.

Ordered, That a bill or bills be brought in, pursuant to the said resolution; and that Mr. CRAIK, Mr. HARRISON, and Mr. BIRD, do prepare and bring in the same.

WEDNESDAY, March 19.

Mr. S. SMITH, from the Committee of Commerce, reported a bill for the relief of John Collet; which was read, and ordered to be engrossed for a third reading to-morrow.

Mr. GRISWOLD observing that so much had lately been mentioned about our national debt and its increase, in the public papers, he would lay on the table the following resolution:

"Resolved, That a committee be appointed to examine the accounts of the United States relating to the public debt, and to report how far the same has been increased or diminished since the establishment of the Government of the United States under the present Constitution."

A petition of Oliver Pollock, renewing his former application for compensation on account of moneys advanced for, and services rendered, the United States, during the late war, was presented to the House and read, stating that he is possessed of new proofs in support of his said demand, and praying that the House will go into an investigation of the same.

Ordered, That the said petition be referred to the Committee of Claims.

A memorial of the Select and Common Councils of the city of Philadelphia, was presented to the House and read, praying that Congress may take such precautionary measures to prevent the introduction of the plague, which has for some time prevailed in the countries bordering on the Mediterranean, as to their wisdom shall seem meet.

Ordered, That the said memorial be referred to the Committee of Commerce and Manufactures.

SUNDRY BILLS.

The following engrossed bills were read the third time, and passed:

An act providing for an amicable settlement of limits with the State of Georgia, and establishing a regular Government in the Mississippi Territory;

An act to extend the privilege of obtaining patents for useful discoveries and inventions to certain persons therein mentioned; and to increase and define the penalties for violating the rights of patentees; and

An act to enable the President of the United States to borrow money for the public service.

The yeas and nays being called on the passage of the last named bill, were taken, and stood—yeas 52, nays 39, as follows:

YEAS—Willis Alston, George Baer, Bailey Bartlett, John Bird, Jonathan Brace, John Brown, Christopher G. Champlin, William Cooper, William Craik, John

Davenport, John Dennis, George Dent, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Samuel Goode, Chauncey Goodrich, Elizur Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Archibald Henderson, William H. Hill, Benjamin Huger, James H. Inlay, Aaron Kitchell, Henry Lee, Silas Lee, Samuel Lyman, James Linn, Harrison G. Otis, Josiah Parker, Jonas Platt, Leven Powell, John Reed, Samuel Sewall, James Sheafe, Samuel Smith, Richard Dobbs Spaight, George Thatcher, Richard Thomas, Joseph B. Varnum, Peleg Wadsworth, Robt. Waln, Lemuel Williams, and Henry Woods.

NAYS—Theodorus Bailey, Phaniel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, John Dawson, Joseph Eggleston, Lucas Elmdorf, John Fowler, Albert Gallatin, Andrew Gregg, John A. Hanna, Thomas Hartley, Joseph Heister, David Holmes, George Jackson, James Jones, Michael Leib, Matthew Lyon, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, John Randolph, John Smilie, John Smith, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, and Robert Williams.

MILITARY ACADEMY, &c.

Mr. OTIS, from the Committee of Defence, reported a bill for establishing a Military Academy, and for better organizing the corps of Engineers and Artillerists.

The bill was proceeding to be read, when Mr. OTIS suggested that as this bill contained much the same in detail as a report on the subject made by the Secretary of War, with which every gentleman was acquainted, he supposed the reading would not be necessary.

Mr. MACON said he should have no objection to its being read a first time, though he did not think it necessary; but he would give notice that it was his intention to move that the bill be rejected. He mentioned his reasons to be the expense of the measure generally, which it was an improper time to incur.

The bill having been read, he made the motion.

Mr. OTIS and Mr. CHAMPLIN answered. Mr. VARNUM supported the motion, which was at length negatived, 49 to 42; and the bill was referred to a Committee of the whole House.

RHODE ISLAND COLLEGE.

The House went into Committee on the report of the Committee of Claims, on the petition from the College of Rhode Island, praying payment for the occupation and certain injuries sustained by the said College on being used as an hospital for the troops of the United States, and of the French troops, during the war.

The report was, that compensation ought to be granted for the use and occupation, together with injuries sustained in the said College in its use by the Army of the United States, during the war, for an hospital.

Mr. CHAMPLIN proposed to amend the report by adding thereto, that compensation should also be made for its use by the French Army for the

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Removal of Seat of Government, &c.

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same purpose. Mr. C. as well as Mr. BROWN contended that it was proper that compensation should be allowed for its use and injury by the French, they being in the United States service, as part of the American Army. On the other hand, it was contended that the French Army were to procure their own supplies, and pay for their own damages, which, in many instances that were recited, they had done, and therefore that application should have been made to them.

After considerable conversation, the motion was rejected.

The question, then, was for agreeing to the report. This caused considerable debate. On one side it was contended that this was a claim of a similar nature to many which had been rejected from individuals, and there could be no preference to this above the claim of an individual who had lost his property. Doubts were also expressed whether this claim was not barred by the statute. In support of the claim, instances were produced of Wilmington, Jersey, and Hartford Colleges, having received compensation in like cases; that the damages had been sustained, and the use made of the house, and that if any claim at all called for redress, it was incorporated literary societies, by which the Government was upheld. Mr. C. pressed the justice of the case with much zeal.

At length the resolution was agreed to in Committee, and the House concurred—yeas 51.

The Committee of Claims were instructed to report a bill accordingly.

THURSDAY, March 20.

An engrossed bill for the relief of John Collet was read the third time and passed.

Mr. D. FOSTER, from the Committee of Claims, reported a bill for the relief of the Corporation of Rhode Island College.

Mr. CRAIK from the committee appointed for that purpose, reported a bill to divide the Territory of the United States Northwest of the river Ohio into two separate governments.

Mr. JONES, from the committee appointed for that purpose, reported a bill supplementary to the act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers.

These bills were severally twice read and referred to the Committee of the whole House.

The House went into Committee on the report of the committee to whom was referred the petition from several aliens of Mount Pleasant, who prayed, that having neglected to make the declaration of their desire to become citizens before the period expired which was settled by law, they may not be subjected to wait fourteen years before they could become citizens.

The Committee, after stating a variety of reasons, reported that the prayer of the petitioners ought not to be granted. The House concurred.

REMOVAL OF SEAT OF GOVERNMENT.

Mr. OTIS observed that it appeared to be the general opinion that the seat of Government would be removed to the Federal City, and that Congress would commence their next session at

that place; and as some preliminary measures were necessary to be made previous thereto; and as it would be reposeing too much power in the Commissioners who now act there to rely entirely on their reports; and as some measures must be reported and adopted before the end of the present session, he laid on the table the following resolution:

“Resolved, That a committee be appointed to consider what measures are expedient for Congress to adopt, preparatory to the removal of the seat of Government, with leave to report by bill or otherwise.”

THE PUBLIC DEBT.

Mr. GRISWOLD called up a resolution he yesterday laid on the table, which, after being modified by Mr. GALLATIN, was adopted, as follows:

“Resolved, That a committee be appointed to examine the accounts of the United States, so far as relates to the public debt; the amount of the expenses incurred; the amount of debt extinguished; and, generally, such facts as relate to the public receipts and expenditures under the present Constitution.”

Seven members were appointed.

Mr. HARPER moved that the said committee might be instructed to inquire into and ascertain, as near as may be, and report to the House, the amount of moneys paid since the establishment of the present Government for grants for incidental claims arising under the old Government; the amount of unfunded debt paid since that period; the amount paid for military pensions; the amount paid for the construction and repair of light-houses, beacons, &c.; the sum paid to quell the Western insurrection; the sum paid in fortifying the ports and harbors; the expenses of the fabrication of arms and military stores; the expenses of the ships-of-war, together with the amount of materials now on hand; the sums paid for the preservation of peace with the Indian tribes; the expenses for the relief and protection of American seamen; the amount for ascertaining and fixing the boundary lines of the United States; the sums paid for the preservation of peace with the Barbary Powers; and also a statement of the whole public property of every kind acquired, and now possessed, by the Government of the United States.

Mr. GALLATIN had no objection to the principle of the resolution, but, as the gentleman had gone into detail, if he by mistake had omitted any article, it would only lead the House into mistaken conclusions. He thought the amount of the whole of the expenditures as well as receipts ought to be stated in a general resolution, leaving the committee to give it in such detail as they might think proper.

Mr. HARPER said his object was not to obtain every expense of the whole Government; he did not want a statement of the civil list, but of what was called incidental and extraordinary expenses, into which the Government had been drawn by particular circumstances.

The motion was laid on the table.

STOUFFER AND WALLACE.

The House resolved itself into a Committee on the report of the Committee of Commerce on the

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petition of Stouffer and Wallace. The report recommended that the prayer of the petitioners should not be granted.

Mr. S. SMITH hoped the report would not be agreed to; he stated the committee to have been nearly equally divided in this case. It appeared that one of the petitioners (Mr. Wallace) being at Tortola, a British island, purchased the ship, for which a register was prayed, at \$20,000; which ship had been captured and condemned, and sold in that island. Mr. S. contended that the ship was purchased under the orders and instructions of the Secretary of State, in a report made on this subject, (which was read,) and wherein it was considered proper to take vessels captured into the ports of Great Britain, or any other at war with France, provided the distance was great from the United States. Conceiving this ship entitled to all the privileges under this instruction, as it would have if it had been condemned and sold in the United States, he thought himself perfectly safe in purchasing the vessel, not doubting but she was entitled to a register.

Mr. SEWALL stated the reasons of the committee in reporting against the petition. It appeared that this gentleman had mistaken the law, and this mistake the committee thought ought to be borne by the petitioners, rather than admit a very injurious principle. The consequence would very probably be that vessels would be taken into a British port, in preference to an American port, and thus the United States would be parties in the war. Further, it appeared that this vessel was taken while the captors were in company with a British privateer. With respect to the instructions of the Secretary of State, it was not stated that all the advantages were to be allowed to a vessel sold in a British port, to which she would have been entitled if sold in the United States; and that the purchaser certainly ought to have inquired into the operation of the laws of the United States in the case, or abide by the consequences.

Mr. NICHOLAS said he had no doubt but the instructions of the Secretary of State were wrong, and contrary to the law, and that the determination of the committee was right, and he hoped it would be decided in that way.

Mr. SMITH again supported the right of the petitioner. It was but fair, he said, if a man had been led into an error, by the instructions of a public officer, that the Government should assist him. Mr. Wallace had nothing to do with the privateers; the captors brought the vessel and sold it to him, at the same time producing the order of the Secretary for his security.

The Committee agreed to the report of the select committee, and the House concurred—yeas 45, nays 31.

The House went into a Committee on the report of the Committee of Claims on the petition of Amy Dardin, which was that the prayer of the petitioner ought not to be granted. Being taken up in the House, the propriety and impropriety of granting it was again contended, when there appeared in favor of the report 42, against it 42. The

SPEAKER decided in the affirmative, so that the claim was not admitted.

The House resolved itself into a Committee of the Whole House on the bill to provide for the execution of the twenty-seventh article of the Treaty of Amity, Commerce, and Navigation, made with Great Britain; and, after some time spent therein, the Committee rose, reported progress, and asked leave to sit again.

FRIDAY, March 21.

Mr. MARSHALL, from the committee appointed on the subject of the Western Reserve of Connecticut, made a report that the cession of the said lands ought to be accepted by the United States upon terms mentioned by a bill which he also reported, and which was referred to a Committee of the Whole House.

Mr. PARKER, from the Naval Committee, reported a bill fixing the rank and pay of the commanding officer of the Corps of Marines. Committed to the Whole House.

The House then went into a Committee on the bill supplementary to an act for regulating the trade and intercourse with the Indian tribes, &c.; which was ordered to be engrossed for a third reading on Monday next.

Mr. OTIS called up his resolution, yesterday proposed, for a committee to inquire respecting the removal of the Government to the Federal City, which he now altered, so that the reference was made to the Committee of Ways and Means. The motion was agreed to.

ACTION OF THE FRIGATE CONSTELLATION.

The SPEAKER laid before the House a report from the Secretary of the Navy, in compliance with the instructions of the House, respecting the engagement which occurred between the frigate *Constellation* and a French ship-of-war. The report enclosed a letter from Captain Truxtun, detailing the action, and also extracts of letters from the American Consul at Curaçoa, and one from the American agent at St. Kitts, respecting the disabled state of the French ship *La Vengeur*. As to any particular specimen of valor, the Secretary received no information; but that all the officers and men had acted with the most unexampled bravery and decorum was attested by the Captain, whose good management was evinced by the singular success of the action. The Secretary mentions the singular bravery of James Jarvis, a Midshipman, who preferred death to quitting his post.

On motion of Mr. H. LEE, this report, together with a resolution proposed some days since by Mr. PARKER, was referred to the Naval Committee.

RHODE ISLAND COLLEGE.

An engrossed bill for the relief of the Corporation of Rhode Island College was read, and, on the question for its passage, Mr. RANDOLPH wished to know what difference there was in the prin-

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ciple of this claim and that which was yesterday negatived of Amy Dardin.

Mr. D. FOSTER stated it to be, that the claim of Amy Dardin was barred by the statute of limitation, whereas this was not; and, being just, a bill was reported on it. The principle of the bill was strongly contested by Messrs. GOODE, GALLATIN, and NICHOLAS, on the ground of its being barred by the statute. Messrs. D. FOSTER, OTIS, and CHAMPLIN, spoke in answer. At length Mr. S. SMITH moved the postponement of the question on the bill until Monday, in order to ascertain whether it was barred or not.

It was postponed.

CHILDREN OF MAJOR TRUEMAN.

The House resolved itself into a Committee on the report of the Committee of Claims, on the petition of J. Somerville and H. T. Compton, guardians of the orphan children of the late Major Alexander Trueman, who was killed in bearing a mission to the Indians. The report was, that the decision of the accounting officers of the Treasury was right, and that the prayer of the petition ought not to be granted. Mr. E. FOSTER moved to agree with the report.

[It appeared that this claim was made for the difference of half-pay between a special law that was passed in this case, and a general law that was afterwards passed in behalf of the widows and orphan children of persons slain in battle, generally.]

Messrs. J. C. THOMAS, S. SMITH, and H. LEE, spoke in favor of the claim, and Messrs. D. FOSTER, MACON, and NICHOLAS, against it. After which the report was agreed to—ayes 48. The House concurred.

Mr. DAVIS afterwards laid on the table a resolution that a committee be appointed to report whether or not it was expedient to extend the general law of 1793 to the children aforesaid.

MONDAY, March 26.

Mr. HARPER, from the Committee of Ways and Means, reported a bill making further provision for the removal and accommodation of the Government of the United States; which was twice read and committed to the whole House.

An engrossed bill, supplementary to the act for regulating trade and intercourse with the Indian tribes, and to preserve peace on the frontiers, was read and passed.

Mr. HARPER, directed by the Committee of Ways and Means, proposed the following resolution, which was agreed to:

Resolved, That the Committee of Ways and Means have leave to prepare and report a bill or bills for making appropriations for the various branches of the public service during the present year."

Mr. HARPER reported a bill from the Committee of Ways and Means, to amend an act providing for a second census or enumeration of the inhabitants of the United States. Mr. H. stated this act to be only an alteration to conform the bill to an amendment made to the title of the bill

which passed the present session. It was ordered to be engrossed for a third reading.

MEDAL TO CAPTAIN TRUXTUN.

Mr. PARKER, from the Naval Committee, reported the following resolutions:

Resolved, by the Senate and House of Representatives of the United States, in Congress assembled. That the President of the United States be requested to present to Captain Thomas Truxtun, a golden medal, emblematical of the late action between the United States frigate Constellation, of 38 guns, and the French ship-of-war La Vengeance, of 54 guns, in testimony of the high sense entertained by Congress of his gallantry and good conduct in the above engagement, wherein an example was exhibited by the Captain, officers, sailors, and marines, honorable to the American name, and instructive to its rising navy.

Resolved, That the conduct of James Jarvis, a Midshipman in said frigate, who gloriously preferred certain death to an abandonment of his post, is deserving of the highest praise; and that the loss of so promising an officer is a subject of national regret."

The House then proceeded to the consideration of these resolutions; the first of which being under consideration,

Mr. RANDOLPH said, that inasmuch as he could not give his assent to these resolutions, he felt impressed with the propriety of stating the reasons which would govern his vote.

It was not with any intention to detract from the deserved reputation which had been so nobly earned by the Captain, officers, and crew, of the Constellation; still less to withhold the well-earned applause due to that gallant youth who had sacrificed his life in the prosecution of his duty. It was to the first of these resolutions, only that he should deny his concurrence. He should do this, unless the gentlemen of the Naval Committee should show to him that it was the duty of the commander of the Constellation to persist in the chase, and compel to action a ship of such superior force. This conduct was, in his opinion, rash; and, when the situation of the United States and France was taken into consideration, it was peculiarly inadvisable. Our Commissioners were at this time in the capital of that country negotiating peace. How did the pursuit of this ship—the forcing her into an action, which ended in the crippling of both vessels—comport with that protection which was to be afforded to our commerce by the Constellation?

Mr. R. said that his duty obliged him to act upon his own opinion; and, however singular it may appear, he should vote against the first resolution, unless the gentleman who brought it forward would make it appear that it was the duty of Captain Truxtun to compel the Vengeance to come to action, when he knew her to be of such superior force. The second resolution met his most hearty approbation.

Mr. PARKER said, what the present state of things between the two countries might be, in the opinion of his colleague, he could not say; but Mr. P. conceived it was no other than it was at the time Congress passed a bill which prescribed

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the conduct of our naval commanders. In that bill they were authorized to take or destroy all French armed vessels; under these orders Captain Truxtun left this country, and, in obedience to instructions to that effect, he pursued and engaged this vessel, which, though of superior force, he had beaten. Had he not attacked her, it is most probable she would have proceeded against our commerce. The law having been passed by Congress, if the President of the United States had not given orders conformably thereto, he would have been subject to impeachment. He, therefore, presumed it to be his duty; and, most certainly, such orders being given to the commanders, they were bound to conform to them. Mr. P. thought that this and greater approbation ought to be expressed by Congress for conduct so brave and unprecedented. In some countries monuments had been raised, but this was unnecessary, though merited. Our naval exertions were very recent and confined, but an instance of extraordinary valor having occurred it ought to be honorably and suitably noticed.

Mr. NICHOLAS said, however he might agree with his colleague (Mr. RANDOLPH) in a desire that no conduct should be encouraged that would tend to aggravate France in the present situation of things, he could not agree with him in his present sentiments. While we were in a state of actual, though not of declared war, Mr. N. thought it was naturally to be expected that our commanders would act in their complete military character, when our ships were arrayed for battle, and power given to act up to the full rigor which the laws of honor and of war would warrant. In the conduct of the Captain, as well as the crew, Mr. N. said, he saw nothing but what was extremely laudable, and highly meriting approbation.

Mr. LYON said he rose to request the division of the question on the resolutions. He was disposed to vote for the latter resolution, and not for the former.

The SPEAKER declared they would be divided, and that the question before the House was on the agreeing to the first resolution.

Mr. LYON observed that he had voted for the equipment of the three frigates under an impression that they would be employed solely for the protection of the commerce of this country; but now he found himself called upon to give thanks or praise to the commander of one of those frigates, and for what? for going out of the station assigned to him, as the most proper for the protection of the trading vessels of this country, in chase of a ship-of-war of much superior force; and for reducing the ship under his command, as well as that of his opponent, to a mere wreck. Mr. L. said he had seen nothing in the orders which had been published directing him to do this, nor did he think policy or prudence dictated the measure. Let all our naval commanders be excited to follow this example; let them play or fight each of them their vessel against a French vessel-of-war of superior force in the same way, and our naval force is crippled, while the French will scarcely feel their loss; then our commerce would be wholly

at their mercy. Besides these considerations, what is there to defend that commerce, on the station left destitute by the Constellation, while she is refitting. For his part he was as glad and proud as any gentleman that our officers, and our sailors, and our marines, had behaved gallantly and done themselves and their country honor, in the late action, but he did not feel himself bound, under existing circumstances, to give distinguished praise to the conduct which produced it; he should therefore vote against the resolution.

Mr. J. BROWN would vote for this resolution for the very reason which some gentlemen urged for voting against it. He thought the very fact of chasing a ship of superior force, and forcing her to an action which had been attended with success, was a commendable act. This to him would be the only inducement for paying so high a mark of national respect. If it had been an attack upon a vessel of inferior force, he should not think it worth notice. The objection was partly on account of the French ship being of superior force; surely this would rather be a reason why we should have vessels of greater force than we have now; therefore he hoped the worthy member would suffer that brave officer to go to sea next time with a 74-gun ship under his command, when he would doubtless bring the enemy to a good account.

The yeas and nays were called on this resolution and carried—yeas 87, nays 4, as follows:

YEAS—Willis Alston, George Baer, Bailey Bartlett, John Bird, Phaniel Bishop, Jonathan Brace, John Brown, Robert Brown, Samuel J. Cabell, Christopher G. Champlin, William C. C. Claiborne, John Condit, William Cooper, Samuel W. Dana, John Davenport, Thomas T. Davis, John Dawson, John Dennis, George Dent, Joseph Dickson, William Edmond, Joseph Eggleston, Lucas Elmendorf, Thomas Evans, Abiel Foster, Dwight Foster, John Fowler, Jonathan Freeman, Albert Gallatin, Henry Glen, Samuel Goode, Chauncey Goodrich, Elizur Goodrich, William Gordon, Edwin Gray, Roger Griswold, John A. Hanna, Robert Goodloe Harper, Thomas Hartley, Archibald Henderson, William H. Hill, David Holmes, Benjamin Huger, James H. Inlay, James Jones, Aaron Kitchell, John Wilkes Kittera, Henry Lee, Silas Lee, Michael Leib, Samuel Lyman, James Linn, Nathaniel Macon, John Marshall, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, Abraham Nott, Harrison G. Otis, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, John Rutledge, jr., Samuel Sewall, James Sheafe, William Shepard, John Smilie, John Smith, Samuel Smith, Richard Stanford, David Stone, Benjamin Taliaferro, George Thatcher, John Chew Thomas, John Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Peleg Wadsworth, Robert Waln, Robert Williams, Lemuel Williams, and Henry Woods.

NAYS—George Jackson; Matthew Lyon, John Randolph, and Thomas Sumter.

The other resolution was adopted *unanimously*.

RHODE ISLAND COLLEGE.

An engrossed bill was read for the relief of the trustees of Rhode Island College, and after being warmly objected to by Mr. GALLATIN, and warmly

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supported by Mr. CHAMPLIN, the yeas and nays were taken on its passage and resulted—yeas 41, nays 41, as follows:

YEAS—George Baer, Bailey Bartlett, Phaniel Bishop, Jonathan Brace, John Brown, Christopher G. Champlin, William Cooper, John Davenport, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, William Gordon, John A. Hanna, James H. Imlay, George Jackson, Henry Lee, Silas Lee, Samuel Lyman, Joseph H. Nicholson, Harrison G. Otis, Josiah Parker, Thomas Pinckney, Jonas Platt, John Reed, John Rutledge, jr., Samuel Sewall, James Sheafe, William Shepard, Samuel Smith, Benjamin Taliaferro, George Thatcher, Joseph B. Varnum, Peleg Wadsworth, Robert Waln, and Lemuel Williams.

NAYS—Willis Alston, John Bird, Robert Brown, Samuel J. Cabell, Matthew Clay, John Condit, Thomas T. Davis, John Dawson, John Dennis, George Dent, Joseph Eggleston, Lucas Elmendorf, Albert Gallatin, Samuel Goode, Edwin Gray, Andrew Gregg, Robert Goodloe Harper, Joseph Heister, Archibald Henderson, William H. Hill, David Holmes, Benjamin Huger, Aaron Kitchell, Michael Leib, Matthew Lyon, James Linn, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Abraham Nott, John Randolph, John Smilie, John Smith, Richard Stanford, David Stone, Thomas Sumter, John Thompson, Abram Trigg, John Trigg, and Robert Williams.

The SPEAKER declaring himself in the affirmative the bill was passed.

The House went into Committee on the bill for the better regulation of the Courts of the United States, which was read through, when, the hour of adjournment being arrived, a motion was made for the Committee to rise, which was carried.

Progress was reported, and on the question "Shall the committee have leave to sit again?" leave was refused—yeas 38, nays 40, so the bill was lost.

TUESDAY, March 25.

Mr. S. SMITH, from the Committee of Commerce, to whom was referred a resolution to that effect, reported, that it would be inexpedient to authorize the Secretary of the Treasury to remit any forfeitures which have been or may be incurred under the laws of the United States prohibiting the exportation of arms and ammunition, upon the same principles on which the Secretary of the Treasury is authorized to remit forfeitures, penalties, and disabilities, incurred under the revenue laws. The House concurred in the report.

An engrossed bill to amend an act entitled, an act providing for the second census, or enumeration of the inhabitants of the United States, was read; and, after the title was amended so as to read "An act to alter the form of certain oaths and affirmations directed to be taken by the act entitled an act," &c., it was passed.

COURTS OF THE UNITED STATES.

The SPEAKER observed that, yesterday, the bill to provide for the better establishment of the Courts of the United States was taken up in Committee, which rose at the usual hour of adjournment, reported progress, and was refused leave to

sit again; it was however the opinion of the SPEAKER, that the bill was still to be considered in possession of the House; this inference he drew from the constant practice of the House; and therefore, though leave was refused to sit again, the House could now agree to recommit the bill either to the select committee, or to the Committee of the Whole. There never were but two questions on a bill, to commit or to engross; one of these modes he considered must indispensably be taken.

Mr. HARPER then, after some observations, moved to recommit the bill to a select committee.

Mr. GALLATIN contended that the bill was not at all in possession of the House, but in the Committee of the Whole; there the Speaker found it, and until they were discharged from the consideration of it, the Speaker had no power over it.

After some other observations, Mr. NICHOLAS moved its postponement till the first Monday in December next.

Mr. HARPER spoke against the motion, on the ground that gentlemen ought not to object to a system without either showing its impropriety or permitting its friends to show its usefulness. He wished the subject to undergo a discussion, when he was assured it would appear that many valuable improvements were introduced by this bill.

The yeas and nays were then taken on the question of postponement, and stood—yeas 44, nays 50, as follows:

YEAS—Willis Alston, Phaniel Bishop, Rob't Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William Charles Cole Claiborne, John Condit, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Gallatin, Samuel Goode, Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, George Jackson, James Jones, Aaron Kitchell, Michael Leib, Matthew Lyon, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, John Randolph, John Smilie, John Smith, Samuel Smith, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

NAYS—George Baer, Bailey Bartlett, John Bird, Jonathan Brace, John Brown, Christopher G. Champlin, William Cooper, Samuel W. Dana, John Davenport, John Dennis, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Archibald Henderson, William H. Hill, Benjamin Huger, James H. Imlay, John Wilkes, Kittera, Henry Lee, Silas Lee, Samuel Lyman, John Marshall, Lewis R. Morris, Abraham Nott, Harrison G. Otis, Josiah Parker, Thomas Pinckney, Leven Powell, John Reed, John Rutledge, jun., Samuel Sewall, James Sheafe, William Shepard, Richard Dobbs Spaight, George Thatcher, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

Mr. NICHOLAS then moved that the bill be taken up in Committee of the Whole.

The House resolved itself into a Committee thereupon.

Mr. NICHOLAS moved to strike out the first section.

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Mr. HARPER objected, and mentioned the nature and properties of the section.

Mr. NICHOLAS afterwards withdrew his motion, observing that he should reserve it for the seventh section, in which more of the principle of the bill was contained.

A lengthy debate then ensued on a motion of Mr. GALLATIN to strike out the sixth section, which related to suits being entered against the United States in the Supreme Court of the United States.

The Committee rose, and the House adjourned without taking the question.

WEDNESDAY, March 26.

Mr. HARPER, from the Committee of Ways and Means, reported a bill for the support of Government for the year 1800; which was twice read, and committed.

Mr. HARRISON presented a petition of a number of the inhabitants of the Illinois country, in the Northwestern Territory, stating that they inhabit a country of eight hundred miles in length and four hundred in breadth; that many of them have to go six hundred miles to a Judicial court; that immigrations are very numerous; on which, and numerous other accounts, they prayed a division of the Territory. This petition was referred to a Committee of the Whole, to whom was referred a bill on that subject.

COURTS OF THE UNITED STATES.

The House then again resolved itself into a Committee on the Judiciary bill.

The fifth section being under consideration, which made a provision for bringing claims against the United States to be tried before the Courts of the United States,

Mr. GALLATIN said he had yesterday moved to strike out this section, the impropriety of which he again contended; but, even if it were proper, the section by no means contained provisions to prevent frauds being practised in the claims that might be made. On which account, if the principle must pass, it ought to be the subject of a separate bill, wherein necessary precautions might be taken.

Mr. HARPER agreed as to the principle, but had no objection to striking out the section if another bill could be brought in to effect the object. He appealed to the Chair to know whether it would be in order, the section being struck out, (the rules of the House not admitting one bill to be twice brought into the House in one session,) to bring in a bill afterwards containing the same principle, but with additional provisions.

Mr. RUTLEDGE (the Chairman) gave his opinion that striking out the section would not preclude a bill being brought in to modify the same principle, when that was the main object.

The SPEAKER gave his opinion that it would be quite in order, since it was entirely distinct from the general provisions of the bill before the Committee, and would be complete without this; which, if necessary, could be made the subject of another bill; certain, however, he was, that it ought to be

much more guarded than the section made it. There were, he was well persuaded, many enemies to the fifth and sixth sections, who would wish the bill itself to pass; to such it would be a relief to strike out the sections, and could not possibly do injury.

The fifth and sixth sections were ordered to be stricken out.

The seventh section contained provisions for dividing the United States into twenty-nine districts, in each of which a circuit court should be established (which are enumerated.) Mr. NICHOLAS moved to strike out this section, and entered at large into his reasons, and in favor of the present Judiciary system in this respect. Mr. HARPER answered, giving the reasons why it was proper to change the present Judiciary system. Mr. S. SMITH spoke in favor of the motion; after which Mr. GALLATIN and Mr. HARPER again spoke. The Committee rose without a decision, and the House adjourned.

THURSDAY, March 27.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, accompanying his report on the memorial of Charles Pettit, referred to him by order of the House, on the eighth of January, one thousand seven hundred and ninety-six; which were read, and ordered to be referred to the Committee of Claims.

Mr. NICHOLSON laid on the table a resolution that the President of the Senate and Speaker of the House of Representatives should be authorized to adjourn their respective Houses on the last day of April next.

COURTS OF THE UNITED STATES.

The House went into Committee on the Judiciary bill; the motion to strike out the 7th section, containing the principle of the bill, being under consideration,

Mr. MARSHALL entered into a lengthy defence of the new system, and spoke against the motion.

Mr. NICHOLSON replied in answer.

Mr. HARPER, in opposition to the motion, detailed the difference of expense between the present and the new system; it having been stated by the enemies of this bill that the expense of it would be \$100,000 more than the present; Mr. H.'s statement made it only \$46,500 more, which he contended was trifling compared with the essential advantages of a more perfect administration of justice.

Mr. DENNIS also spoke in favor of the bill, with certain modifications in the detail, and Mr. MASON and Mr. NICHOLAS against it.

The question was then taken upon striking out the first section, and carried—ayes 50.

The Committee then rose, obtained leave to sit again, and the House adjourned.

FRIDAY March 28.

Mr. D. FOSTER made a report, from the Committee of Claims, to whom were referred a resolution on the 13th of January last, that it was the

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opinion of the committee that no alteration ought to be made in the law passed the 12th of June, 1798, respecting the loan office and final settlement certificates, indents of interest, and unfunded or registered debt on the books of the Treasury.

The report was referred to a Committee of the Whole.

Mr. LIVINGSTON observed, that great quantities of white cotton goods were imported into the United States, here printed, and again exported, which were not now entitled to a drawback of the duties; he, therefore, proposed the following resolution, which was carried:

Resolved, That the Committee of Commerce and Manufactures be directed to inquire into the expediency of allowing a drawback on exported cotton goods of foreign manufacture, from the United States, and to report by bill or otherwise."

The House went into Committee on the bill fixing the rank and pay of the commanding officer of the Corps of Marines; which was agreed to, and, when in the House, ordered to be engrossed for a third reading.

Mr. H. LEE proposed to the House the following resolution, which was agreed to:

Resolved, That all the papers and packets sent to Mrs. Martha Washington, relict of the late General George Washington, shall be received and conveyed by post free from postage for and during her life."

A committee of three members was appointed to bring in a bill conformably thereto. A bill was accordingly reported by Mr. H. LEE, which was read, and ordered to be engrossed.

On motion, it was

Resolved, That the Secretary of State be directed to lay before this House a report of the proceedings had under an act passed at the last session, entitled "An act in addition to an act, entitled 'An act for the more general promulgation of the laws of the United States;'" together with an account of the expense incurred within each State by publishing the laws therein.

Resolved, That the President of the Senate and Speaker of the House of Representatives be authorized to close the present session, by adjourning their respective Houses on the first Monday of May next.

Ordered, That the Clerk of this House do carry the said resolution to the Senate, and desire their concurrence.

COURTS OF THE UNITED STATES.

The House then went into a Committee of the Whole, on the Judiciary bill.

Mr. HARPER observed, that the section yesterday stricken out in Committee of the Whole, contained the essential principle of the bill, by which almost all the subsequent sections were guided. It was, therefore, impossible for the Committee to proceed with the other sections, so immediately flowing from the seventh section, which had been stricken out. Believing a modification to be essentially necessary, and desirous of putting it into such a train as to be brought before the House, agreeably to the more general opinion as expressed

in the debate, he moved that the Committee of the Whole be discharged, for the purpose of afterwards moving the reference of the bill to a select committee.

Mr. OTIS also spoke in favor of the motion.

MESSRS. GALLATIN, S. SMITH, and NICHOLAS, spoke against the Committee being discharged; wishing that some grounds might be established before it should be referred, in order that the select committee might know upon what principles to report a bill. It was necessary first to know whether it was the will of the House to increase the number of districts; whether the Judges of the Supreme Court should go the circuits, or be confined to the mere business of appeal; and whether, if they are to go the circuits, the number of Judges ought to be increased. Knowing the will of the House on these important articles, the Committee would know what to do.

The motion was carried—ayes 57.

Mr. HARPER then moved that the bill be recommitted to a select committee.

Mr. MACON moved to postpone the further consideration of the bill till the first Monday in December next. He considered the vote of yesterday was a transcript of the will of the House. The session was far advanced, and every gentleman knew how improper it was to discuss any important subject at the end of the session.

Some debate took place on the motion. It was contended in favor of the bill that the revision of the system was very important; that the business being of a public nature, it was the duty of the House to stay to do it, whatever might be their desire to go to their homes. The House had time, and were bound to take it up; but, if it was left till next session, it might not be done. Besides, it was argued that the close of the present Executive's authority was at hand, and, from his experience, he was more capable to choose suitable persons to fill the offices than another.

The question was taken and stood—yeas 46, nays 52, as follows:

YEAS—Willis Alston, Phanuel Bishop, Rob't Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William Charles Cole Claiborne, John Condit, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Gallatin, Samuel Goode, Edwin Gray, Andrew Gregg, John A. Hanna, Thomas Hartley, Joseph Heister, David Holmes, George Jackson, James Jones, Aaron Kitchell, Michael Leib, Matthew Lyon, Edward Livingston, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, John Randolph, John Smilie, John Smith, Samuel Smith, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Joseph B. Varnum, and Robert Williams.

NAYS—George Baer, Bailey Bartlett, James A. Bayard, John Bird, Jonathan Brace, John Brown, Christopher G. Champlin, William Cooper, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Archibald Henderson, William

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H. Hill, Benjamin Huger, James H. Imlay, John Wilkes Kittera, Henry Lee, Silas Lee, Samuel Lyman, John Marshall, Lewis R. Morris, Abraham Nott, Harrison G. Otis, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, John Rutledge, jun., Samuel Sewall, James Sheafe, William Shepard, George Thatcher, Richard Thomas, Peleg Wadsworth, Robert Wain, Lemuel Williams, and Henry Woods.

Ordered, That the Committee of the whole House be discharged from the further consideration of the said bill, and that the same be recommended to Mr. HARPER, Mr. CHAUNCEY GOODRICH, Mr. BAYARD, Mr. MARSHALL, and Mr. SEWALL.

NORTHWESTERN TERRITORY.

The House then went into Committee on the bill to divide the Territory of the United States Northwest of the Ohio.

Mr. MACON moved to strike out the first section; he had heard no considerable reason why the present mode of government was improper, as related to the Governor.

Mr. HARRISON answered, that the Government was too unwieldy; that numbers of families had removed to the Spanish territory; that the number of inhabitants in the Western division was at least 15,000, and that it was the general wish of the people a division should take place.

Mr. HARPER also spoke in favor of the bill. He considered that a territory of 1,000 miles in length and about 700 in breadth, divided by an extensive wilderness, inhabited by Indians, was very much too large, and the local situation too dissimilar to admit of being one Government, either to enact equal laws or to provide for the execution of them.

The motion to strike out was negatived.

Mr. CLAIBORNE moved to amend so as that the Government of the two Territories should be the same as that of the Mississippi Territory lately passed into a law.

Mr. HARRISON wishing this motion had been suspended, and promising to introduce that principle in another bill if this should pass, Mr. C. withdrew it.

The bill was then ordered to a third reading on Monday next.

MONDAY, March 31.

A message was received from the Senate, notifying the House that they had passed "An act prescribing the mode of deciding disputed elections of President and Vice President," to which they desired the concurrence of the House.

The bill was read twice and committed to a Committee of the whole House to-morrow.

The following engrossed bills were read, and passed:

An act fixing the rank and pay of the commanding officers of the corps of Marines;

An act to extend the privilege of franking letters and packages to Martha Washington; and

An act to divide the Territory of the United States Northwest of the Ohio into two separate Governments.

Mr. A. FOSTER, from the committee for that

purpose, reported a bill supplementary to the law now in force, fixing the compensation of the officers of the Senate and House of Representatives; which was twice read, and referred to a Committee of the whole House.

Mr. HARPER, from the committee to whom was recommitted, on the 28th instant, the bill for the better establishment and regulation of the Courts of the United States, reported an amendatory bill to provide for the more convenient organization of the Courts of the United States.

The House resolved itself into a Committee of the Whole on the report of the Committee of Claims, made the twenty-first instant, to whom was referred the petition of Gilbert Dench; and, after some time spent therein, the Committee rose and reported a resolution thereupon; which was twice read, and agreed to by the House, as follows:

Resolved, That the prayer of the petition of the said Gilbert Dench cannot be granted, and that the petitioner have leave to withdraw the same.

A message from the Senate informed the House that the Senate have passed the bill entitled "An act to discharge Robert Sturgeon from his imprisonment," with an amendment; to which they desire the concurrence of this House.

LAKE SUPERIOR COPPER MINES.

The House, according to the order of the day, again resolved itself into a Committee of the whole House on the report of the committee appointed, on the 5th instant, to inquire into the expediency of authorizing the President of the United States to appoint an agent to purchase of the Indians a tract of land on the south side of Lake Superior, which shall include the great copper bed; and, after some time spent therein, the Committee rose and reported a resolution thereupon; which was twice read, and agreed to by the House, as follows:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be authorized to employ an agent, who shall be instructed to collect all material information relative to the copper mines on the south side of Lake Superior, and to ascertain whether the Indian title to such lands as might be required for the use of the United States, in case they should deem it expedient to work the said mines, be yet subsisting; and, if so, the terms on which the same can be extinguished: And that the said agent be instructed to make report to the President, in such time as the information he may collect may be laid before Congress at their next session.

Ordered, That the Clerk of this House do carry the said resolution to the Senate, and desire their concurrence.

SALE OF NORTHWESTERN LANDS.

The House then resolved itself into Committee on the bill to amend the act entitled "An act providing for the sale of the lands of the United States in the Territory Northwest of the Ohio, and above the mouth of Kentucky river."

Mr. COOPER moved that the Committee rise, in order that the bill may be recommitted for the

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purpose of regulating the quantities to be exposed for sale.

This motion was negatived.

Mr. GRISWOLD then moved to strike out the first section, in which he was supported by Mr. EDMOND, Mr. COOPER, and Mr. H. LEE, upon the ground of expense of surveying the lands, which must be very considerable, while the sale would be uncertain; that it would encourage encroachments upon the United States' land, from which it would be impossible to dispossess persons who would make this encroachment.

Messrs. GALLATIN, HARRISON, NICHOLAS, HARPER, and GORDON, spoke in favor of this bill, because it prevented speculators receiving the advantages resulting from offering the lands in large quantities for sale; that the former bill provided the sales to be either in quarter townships, or in lots of 640 acres; but the present bill offered the whole in lots of 320 acres, which must encourage actual settlers to purchase, and of course increase the price of the purchase; that the expense would therefore be soon refunded to the Treasury, with a considerable advantage to the United States, whereas by the operation of the former bill, the sales had been small.

The Committee of the Whole rose without a decision, and obtained leave to sit again.

And the House adjourned.

TUESDAY, April 1.

Mr. S. SMITH brought in a bill to incorporate a company by the name and style of the Mine and Metal Company; which was read a first and second time, and committed for Friday next.

Mr. GRISWOLD, from the Committee of Revisal and Unfinished Business, reported sundry resolutions, recommending the further continuance of the following acts, which will expire with the present session, viz:

An act in addition to the act for the punishment of certain crimes against the United States;

An act to prescribe the mode of taking evidence in cases of contested elections for members of the House of Representatives, and to compel the attendance of witnesses;

An act to authorize the defence of merchant vessels of the United States, against French depredations.

In this report the House concurred.

Mr. GALLATIN also reported, that it would be advisable further to suspend the operations of the following acts, viz:

An act laying an additional duty upon salt imported into the United States, and for other purposes; and

An act further to suspend the duties on the manufacture of snuff within the United States, and of drawbacks on the exportation thereof.

The consideration of the question on the act laying a duty on salt, was postponed till to-morrow, and committed to a Committee of the whole House. The second resolution was agreed to.

The SPEAKER laid before the House a letter from the Secretary of State, accompanying his report

made in pursuance of a resolution of this House, on the twenty-eighth ultimo, directing him to lay before this House a report of the proceedings had under an act passed at the last session, entitled "An act in addition to an act, entitled 'An act for the more general promulgation of the laws of the United States,' together with an account of the expense incurred within each State, by publishing the laws therein; which was read, and ordered to lie on the table.

The House proceeded to consider the amendment proposed by the Senate to the bill, entitled "An act to discharge Robert Sturgeon from his imprisonment:" Whereupon,

Resolved, That this House doth agree to the said amendment.

The bill reported yesterday, to provide for the more convenient organization of the Courts of the United States, was read twice and committed to a Committee of the Whole House on Monday next.

SALE OF NORTHWESTERN LANDS.

The House again resolved itself into a Committee of the Whole on the bill to amend the act providing for the sale of the lands of the United States, in the Territory Northwest of the Ohio, and above the mouth of Kentucky river; when Mr. GRISWOLD's motion to strike out the first section being under consideration, Messrs. HARRISON, and J. BROWN spoke against it and Mr. COOPER in favor of it. The motion was at length negatived.

Mr. HARPER then moved an amendment, providing that no money should be paid for surveying the lands, until sufficient had been received into the Treasury from the sales authorized by the act; which was opposed by Messrs. GRISWOLD and JACKSON, as derogatory to the dignity of the Government, and was negatived.

Mr. J. BROWN then moved to amend the bill by striking out the words "half sections" and inserting "quarter sections," so as to have the land surveyed into lots of 160 instead of 320 acres; which was negatived.

Mr. CLAIBORNE, after having stated to the Committee the policy and necessity of granting some indulgence to the intruders on the public lands, moved the following amendment, viz:

"Provided, however, That every head of a family who shall have made an actual settlement or improvement on any part of the lands aforesaid, and shall reside on the same, shall have the right of pre-emption to the half section on which he resides, at the rate of — dollars per acre."

After some observations from Messrs. GALLATIN, JACKSON, and KITTERA, against the motion, it was negatived, there being only 17 yeas.

After making some amendments, the Committee rose, and the bill was ordered to be engrossed for a third reading to-morrow.

WEDNESDAY, April 2.

An engrossed bill entitled "An act to amend the act entitled, 'An act providing for the sale of lands, &c.," was read the third time and passed.

Mr. S. SMITH, from the Committee of Com-

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merce reported a bill to provide for repairs and additions to the light-house at New London; for the support of the light-house at Clark's Point, and for the erection and support of a light-house at Wigwam Point; which was referred to a Committee of the Whole.

A bill from the Senate for the relief of Thomas Canfield was twice read, and referred to the committee respecting entering caveats on land.

The SPEAKER laid before the House a letter and report from the Secretary of the Treasury on the petition of Benjamin Wells, referred to him the first ultimo; and, also, a counter petition, signed by sundry inhabitants of Fayette county, in the State of Pennsylvania, referred to him on the twenty-fourth ultimo; which were read; and ordered to be referred to the Committee of Claims.

Mr. SEWALL, from the managers appointed, on the part of this House, to attend a conference with the managers appointed on the part of the Senate, on the subject-matter of the amendments proposed by the Senate, and disagreed to by this House, to the bill, entitled "An act to allow a drawback of duties on goods exported to New Orleans, and therein to amend the act, entitled 'An act to regulate the collection of duties on imports and tonnage,'" made a report; which was read and considered: Whereupon,

Resolved, That this House doth recede from their disagreement to the amendments proposed by the Senate to the said bill; and doth agree to the same, with an amendment.

Mr. SEWALL, from the committee to whom were referred, on the twenty-fourth of December, and on the first and thirteenth of January last, the several petitions of Thomas Burling and others, of John Collier and others, and of Cato West and others, made a report; which was read, and ordered to be committed to a Committee of the Whole House on Monday next.

The bill sent from the Senate, entitled "An act for the relief of Ithamar Canfield," was read twice and committed to the committee appointed, on the twelfth of February last, to inquire into the expediency or in expediency of passing a law to prevent entering a caveat, in any case, to hinder the issuing a patent for land granted for military services.

Ordered, That the report of the Secretary of War, made the twenty-sixth of February last, on the petition of Samuel Lewis, senior, be referred to Mr. CLAIBORNE, Mr. DENNIS, and Mr. SILAS LEE.

HEIRS OF HARDING AND TRUEMAN.

Mr. DAVIS called up a resolution which he laid on the table some days since, that a committee be appointed to consider whether the provision of the law of 29th April, 1798, may be extended to the widows and orphans of the late Colonel Harding and Major Trueman.

Messrs. D. FOSTER and MACON spoke against the reference; Messrs. PARKER, R. THOMAS, HARRISON, and DAVIS, in favor of it.

Mr. GRISWOLD moved its reference to the Committee of Claims, (instead of a select committee;) which was supported by Messrs. NICHOLAS, and

KITCHELL, and opposed by Messrs. RUTLEDGE, CLAIBORNE, S. SMITH, and BIRD. Thirty rising only in favor of this reference, it was negatived.

The resolution was then referred to a select committee—yeas 57.

REMOVAL OF THE SEAT OF GOVERNMENT.

The House then resolved itself into a Committee on the bill to make further progress for the removal and accommodation of the Government of the United States.

A motion was then made to fill a blank for the accommodation of the household of the President, about which considerable conversation occurred; when Mr. RUTLEDGE moved that the Committee rise, in order that time may be given for learning the amount of money wanting for this object, and because he supposed the chairman of the committee, who was absent, might be able to give that information. The motion was afterwards withdrawn, but renewed by the SPEAKER, and at length carried.

TREATY WITH GREAT BRITAIN.

The House then went into Committee on the bill for carrying into effect the twenty-seventh article of the Treaty with Great Britain.

Mr. NICHOLAS was surprised a business so delicate as this should be entrusted solely to the Secretary of State; he conceived none less than the Executive ought to take steps for delivering over an offender under the treaty.

Mr. MARSHALL informed him that he was preparing an amendment to the 2d section of the act; which he afterwards produced, providing that on any requisition being made under this article, the testimony should be taken in writing and transmitted to the Secretary of State, and by him laid before the President of the United States, whose opinion should decide whether the matter was cognizable in any court of the United States, or whether the offender should be delivered up; if the former, that he should give directions to the Judge in whose district the offender was apprehended to proceed to trial according to law: if not, and the crime came under the treaty, that he should direct the Secretary of State to direct the Judge to make the delivery.

This was agreed to.

Mr. NICHOLAS said this did not altogether remove his objection: he wished the Secretary of State to be out of the question, since it was not here as in Great Britain where the Secretary of State was the first Executive. However, he varied a motion he made to strike out these words, so as to read "the Secretary of State, under the direction of the President." This was carried.

Mr. NICHOLAS then proposed two provisos at the end of the section, the first of which went to prevent the delivery up of any person for offences, for the trial of which any Courts of the United States are competent, so as to preserve inviolable the Constitutional right of trial by jury. The other proviso went to permit any person so charged, if he was an American and impressed into the British service, to make claim thereof to the judge by whom he was committed, in which custody he

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should only remain for safe-keeping during the time in which he might be able to send for testimony to prove the facts of his claim, which depositions might be received by the judge in writing; against which the claimants should be allowed to bring proof that the person entered voluntarily into the British service, and that if it should appear he was impressed and kept on board a British ship, contrary to his desire, he should be discharged.

The Committee rose, in order to have these motions printed, and the House adjourned.

THURSDAY, April 3.

Mr. HARPER, from the Committee of Ways and Means, reported a bill making appropriation for the Military Establishment of the United States for the year 1800; which was twice read and committed to the whole House.

Mr. HARPER observed that in some of the States lands were received in satisfaction of judgments, which also was the case in such places where the United States were plaintiffs. To remedy what he conceived an evil, he laid on the table the following resolution:

Resolved, That a committee be appointed to inquire and report, by bill or otherwise, whether any, and what, further provisions are necessary to be made relative to the sales of real estate delivered to the United States in satisfaction of judgments against persons indebted thereto."

Three members were appointed.

GOVERNMENT OF THE NAVY.

The House then went into Committee on the bill for the better government of the Navy, and to repeal the act heretofore made for that purpose.

The discussion of the bill occupied the House till near four o'clock, and a variety of amendments were made to it. After the Committee had risen, and the amendments were agreed to,

Mr. RANDOLPH moved the recommitment of the bill. He said he did this from impressions that some of the provisions of it were unconstitutional, men being to be tried, and suffer by the decision of a court martial, when the Constitution says, article 3, section 2: "The trial of all crimes, except in cases of impeachment, shall be by jury." And the amendments to the Constitution, article 7, says: "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger;" this, he conceived, prevented Congress ordering any court martial.

Mr. R. said he had no kind of objection to the bill, but he wished his scruples on these articles to be cleared up to him, or he must vote against it on the ground of unconstitutionality.

Mr. PARKER said, he considered it indispensable that persons in the Navy, as had been always the case in the Army, should be tried for offences by court martial. He believed the objections were

fully answered by that part of the Constitution, article 1, section 8: "Congress shall have power to make rules for the government and regulation of the land and naval forces." The "rules and regulations," he supposed to be everything that related to subordination, which he thought was borne out by the exception in the amendment mentioned by the gentleman.

The motion to recommit was lost by a large majority.

The bill was ordered to be engrossed for a third reading to-morrow.

FRIDAY, April 4.

An engrossed bill for the better government of the Navy was read the third time and passed.

Mr. HARPER, from the Committee of Ways and Means, reported a bill to make appropriation for the Navy of the United States during the year 1800; which was referred to the Committee of the Whole.

Mr. HARRISON reported a bill authorizing the Secretary of the Treasury to lease certain salt springs, the property of the United States, in the Territory Northwest of the Ohio; which was referred to the Committee of the whole House.

A message from the Senate informed the House that the Senate have disagreed to the bill, entitled "An act to prevent the interference of any military force in certain elections."

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act to establish a General Stamp Office," with several amendments, to which they desire the concurrence of this House.

Ordered, That the said bill and amendments be referred to the Committee of Ways and Means.

SUNDRY BILLS.

Mr. GRISWOLD, from the Committee of Revisal and Unfinished Business, reported the following bills:

A bill to continue in force an act, entitled an act laying duties on mills and implements used in the manufacture of snuff;

A bill to continue in force an act, entitled an act to authorize the defence of merchant vessels of the United States against French depredations;

A bill to continue in force an act for the punishment of certain crimes against the United States.

The two first were ordered to be engrossed for a third reading on Monday. The last was referred to a Committee of the Whole House.

REMOVAL OF THE SEAT OF GOVERNMENT.

The House then went into Committee of the Whole on the bill for the removal and accommodation of the Government of the United States.

Mr. HARPER proposed to amend the act so as that the sum to accommodate the household of the President of the United States with furniture, in addition to what was now in possession of the President, should not operate until after the third of March next. This he did, he said, in consequence of some Constitutional doubts which he had expressed. The Constitution declaring that

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the salary of the President should receive no addition nor diminution during his being in office. This was concurred in.

The question then was, what sum should be allowed for that purpose; \$20,000, \$15,000, and \$10,000, were severally named.

Mr. RANDOLPH, considering the principle itself unconstitutional, moved, in order to defeat the section altogether (it having been amended and being out of order to move its being stricken out) to insert the sum of \$500. These different sums called forth a lengthy debate. The sum of \$20,000 was negative—45 to 39. That of \$15,000 was carried—yeas 44, nays 42.

Mr. HARPER proposed a provision that this money should be expended under the direction of the Secretaries of the four Executive departments, which was agreed to; one thousand dollars was allowed for removing the public property appertaining to the household of the President to the Federal city.

Mr. D. FOSTER moved to strike out the 5th section, which provides that \$10,000 shall be appropriated to pave such parts of the city as, in the opinion of the commissioners, and the Secretaries of Executive departments, may be convenient for the Government. This was negative, only 21 rising for it.

On motion of Mr. BAYARD the Secretaries of the Executive departments were inserted in lieu of the Secretary of Senate and Clerk of the House of Representatives, who were to provide for the accommodation of Congress.

Mr. SMITH moved a new section, which was carried—that the clerks of the several offices of the Departments of State, Treasury, War, Navy and General Post Office, should be allowed each one quarter additional salary to provide for their removal.

Nine thousand dollars were appropriated to furnish the two Chambers of Congress, offices, committee rooms, &c.

The Committee rose; when Mr. GALLATIN moved to strike out the 2d section, which provided \$15,000, to accommodate the President's House with furniture. He did it, not because it would not be necessary to appropriate something, but he said what that something might be, would be better ascertained by waiting for the proper estimates, and until Congress moved there, when as much as should appear necessary might be appropriated, since it was not to come into use until after 3d of March.

Twenty-six members only rose in favor of this motion, so it was negative.

The bill being gone through, was ordered to be engrossed for a third reading on Monday.

MONDAY, April 7.

Mr. HARPER, from the Committee of Ways and Means, to whom were referred, on the fourth instant, the amendments proposed by the Senate to the bill, entitled "An act to establish a General Stamp Office," made a report, which was received, and ordered to lie on the table.

Mr. H., from the committee to whom was referred, on the seventh ultimo, the memorial of Matthew Patterson and others, made a report; which was received, and ordered to lie on the table.

The following bills were read a third time and passed, viz :

An act to repeal the act laying duties on mills and implements employed in the manufacture of snuff;

An act to continue in force the act entitled, an act to authorize the defence of the merchant vessels of the United States against French depredation; and

An act to make further provision for the removal and accommodation of the Government of the United States—yeas 47, nays 32.

CONNECTICUT WESTERN RESERVE.

Mr. MARSHALL called for the order of the day, on the bill to authorize the President of the United States to accept, for the United States, a cession of jurisdiction of territory lying west of Pennsylvania, commonly called the Western Reserve of Connecticut.

Mr. COOPER moved that the further consideration of the bill be postponed till the first Monday in December next.

MESSRS. MARSHALL, HARRISON, HARPER, GRISWOLD, GALLATIN, KITTERA, C. GOODRICH, and DANA, opposed this motion, and Messrs. COOPER, BIRD, RANDOLPH, PLATT, and MACON, spoke in favor of it.

The question was at length taken by yeas and nays, and stood yeas 30, nays 57, as follows:

YEAS—Theodorus Bailey, John Bird, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William Cooper, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, Henry Glen, Samuel Goode, Edwin Gray, David Holmes, Benjamin Huger, George Jackson, Aaron Kitchell, Nathaniel Macon, Anthony New, Joseph H. Nicholson, Jonas Platt, John Randolph, John Smith, Samuel Smith, Richard Stanford, David Stone, John Thompson, Abram Trigg, John Trigg, and Robert Williams.

NAYS—Willis Alston, George Baer, Bailey Bartlett, Jonathan Brace, John Brown, Christopher G. Champlin, William Charles Cole Claiborne, John Condit, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Albert Gallatin, Chauncey Goodrich, Elizur Goodrich, William Gordon, Andrew Gregg, Roger Griswold, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Thomas Hartley, William H. Hill, James Jones, John Wilkes Kittera, Henry Lee, Silas Lee, Michael Leib, Samuel Lyman, James Linn, John Marshall, Lewis R. Morris, Peter Muhlenberg, John Nicholas, Abraham Nott, Robert Page, Josiah Parker, Thomas Pinckney, Leven Powell, John Reed, Samuel Sewall, James Sheafe, William Shepard, John Smilie, Benjamin Taliaferro, George Thatcher, John Chew Thomas, Joseph B. Varnum, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

On motion of Mr. GALLATIN, the bill was then postponed till to-morrow—yeas 45.

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The Fisheries, &c.

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THE FISHERIES.

A message was received from the Senate, informing the House that the Senate have passed the bill to continue in force an act concerning certain fisheries of the United States, for the government of the fishermen employed therein, and for other purposes as therein mentioned, with an amendment.

The amendment, was taken into consideration, when,

Mr. CLAY moved a postponement of the question till the first Monday in December next, and called the yeas and nays upon it, which were after some debate taken, and stood: yeas 36, nays 54, as follows:

YEAS—Willis Alston, Theodorus Bailey, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William Charles Cole Claiborne, John Dawson, George Dent, Joseph Dickson, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Gallatin, Edwin Gray, Andrew Gregg, William Barry Grove, John A. Hanna, Joseph Heister, William H. Hill, David Holmes, George Jackson, James Jones, Michael Leib, Matthew Lyon, Nathaniel Macon, Peter Muhlenberg, Anthony New, Joseph H. Nicholson, John Randolph, John Smilie, Richard Stanford, David Stone, Thomas Sumter, Abram Trigg, John Trigg, and Robert Williams.

NAYS—George Baer, Bailey Bartlett, Phaniel Bishop, Jonathan Brace, John Brown, Christopher G. Champ-lin, John Condit, William Cooper, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, William Gordon, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, Benjamin Huger, Aaron Kitchell, John Wilkes Kittera, Henry Lee, Silas Lee, Samuel Lyman, James Linn, John Marshall, Lewis R. Morris, John Nicholas, Abraham Nott, Robert Page, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, Samuel Sewall, James Sheafe, William Shepard, John Smith, Benjamin Thiaferro, George Thatcher, John Chew Thomas, Joseph B. Varnum, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

The amendment of the Senate was then concurred in.

TUESDAY, April 8.

Mr. HARPER, from the Committee of Ways and Means, presented a bill to authorize the sale and conveyance of lands in certain cases, by the Marshals of the United States, and to confirm former sales; which was twice read and committed to a Committee of the whole House.

The report made, yesterday, from the Committee of Ways and Means, to whom were referred, on the fourth instant, the amendments proposed by the Senate to the bill, entitled "An act to establish a General Stamp Office," was read and considered: Whereupon,

Resolved, That this House doth agree to the first, and doth disagree to all the other amendments proposed by the Senate to the said bill.

Resolved, That a conference be requested with Senate on the subject-matter of the amendments disagreed to; and that Mr. HARPER, Mr. GRIS-

WOLD, and Mr. GALLATIN, be appointed managers at the same on the part of this House, jointly, with such committee as may be appointed for the purpose on the part of the Senate.

The report made, yesterday, from the committee to whom was referred, on the seventh ultimo, the memorial of Matthew Patterson and others, was read, and ordered to be committed to a Committee of the Whole House on Thursday next.

ILLINOIS COUNTRY.

Mr. HARRISON, from the committee to whom was referred the petition of a number of the ancient inhabitants of the Illinois country, made a report, recommending the agreement of the House to a bill therewith submitted, in addition to the act entitled an act for granting lands to the inhabitants and settlers of Vincennes, in the Illinois country, in the Northwestern Territory, and for confirming them in their possessions; which was read a first and second time, committed to a Committee of the whole House, and made the order of the day for to-morrow.

VALUATION OF LANDS, &c.

Mr. HARPER said, he was instructed by the Committee of Ways and Means, to move that the House do come to the following resolution, viz:

Resolved, That the Committee of Ways and Means have leave to prepare and report a bill or bills, for authorizing the Commissioners under the act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States, in those States whereof the valuations have not yet been completed and returned, to revise, vary, and adjust the valuation of unseated lands, in the several assessment districts and sub-divisions, within their respective States; so as that the relative valuations of different tracts of such lands, in the same sub-division, be not varied or affected. And also for enabling the Surveyors of the Revenue, under the said act, to add to the lists of valuations within their districts, respectively, all such lands or dwelling-houses therein, as shall from time to time appear to have been omitted, by the assessors or otherwise, in receiving, making, or returning such lists. And also for authorizing the said Surveyors to erase from the said lists, all lands and dwelling-houses wherefrom the persons interested in the said lists respectively shall have been ejected in the due course of law, or upon the title whereto there shall have been a decision in due course of law against such person.

The resolution was agreed to, and Mr. HARPER accordingly brought in a bill to provide for equalizing the valuation of unseated lands; which was read a first and second time, and committed for to-morrow.

CONNECTICUT WESTERN RESERVE.

The House resolved itself into a Committee of the Whole on the bill to authorize the President of the United States to accept, for the United States, a cession of jurisdiction of territory lying west of Pennsylvania, commonly called the Western Reserve of Connecticut.

Mr. COOPER moved to amend the bill by striking out that part which goes to conciliate and adjust the right of Pennsylvania to some of the land in question; and thereby to defeat the bill.

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Messrs. MARSHALL and GALLATIN opposed this motion, which was negatived—yeas 25.

Mr. ELMENDORF then moved to strike out that part of the first section which provides for the acceptance of the cession of a jurisdiction of soil by the United States from the State of Connecticut, and to amend the bill so as to accept the cession of jurisdiction only.

After some debate, Mr. GALLATIN called for a division of the question.

Mr. MARSHALL then entered into a lengthy discussion in favor of the bill, and against striking out.

The Committee then rose, and the House adjourned.

WEDNESDAY, April 9.

Mr. NICHOLAS, from the committee to whom was referred the resolution respecting the orphan children of Colonel Hardy and Major Trueman, after stating the circumstances of their death, reported "a bill making further provisions for the children of the late Colonel John Hardy, and Major Alexander Trueman, deceased."

Mr. DWIGHT FOSTER, from the Committee of Claims, to whom was referred, on the eighth of January last, the petition of William Nicholas, made a report; which was read, and ordered to be committed to a Committee of the whole House to-morrow.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act to alter and to establish sundry post roads," with several amendments; to which they desire the concurrence of this House.

WILLIAM TAZEWELL.

Mr. MARSHALL, from the committee to whom was referred the petition of William Tazewell, Esq., secretary to Elbridge Gerry, Esq., late Envoy to France, who prayed compensation for sundry extra services and expenses, together with losses on account of his capture in returning home, reported the following resolution:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That in settling the accounts of William Tazewell, secretary to Elbridge Gerry, one of the late Envoys to the French Republic, the Secretary of State be authorized to allow the expenses incurred by him in consequence of his being captured on his return to his country.

The report was twice read and referred to a Committee of the whole House.

CONNECTICUT WESTERN RESERVE,

The House again resolved itself into a Committee on the bill to enable the Government to accept a cession of jurisdiction from Connecticut.

Mr. RANDOLPH and Mr. NICHOLAS spoke at length against the principle of the bill. Mr. GRISWOLD and Mr. S. SMITH spoke in favor of it.

Mr. GALLATIN moved a proviso which specially went to prevent the bill being construed to draw into question the conclusive settlement of the dispute between the States of Pennsylvania and Connecticut, by the decree of the Federal Court at Trenton, or to impair the right of Pennsylvania.

This was agreed to. Several other amendments were made, and, when the Committee rose, were concurred in by the House; and the bill was ordered to be engrossed for a third reading to-morrow.

THURSDAY, April 10.

A message from the Senate informed the House that the Senate have passed the bill to extend the privilege of obtaining patents for useful discoveries and inventions to certain persons therein mentioned, and to enlarge and define the penalties for violating the rights of patentees, with several amendments, to which they desire the concurrence of this House. And then he withdrew.

The House proceeded to consider the said amendments; and the same being read,

Ordered, That the said amendments be referred to Mr. HARPER, Mr. KITTERA, and Mr. BIRD.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act to alter and to establish sundry post roads," and the same being read,

Ordered, That the said bill and amendments be referred to Mr. THATCHER, Mr. WOODS, and Mr. CLAIBORNE.

Mr. HARPER, from the Committee of Ways and Means, presented a letter from the Secretary of the Treasury, enclosing a copy of a letter to him from the commissioners of valuation of houses and lands in the State of New York; which were read, and ordered to be committed to the Committee of the Whole House to whom is committed the bill to provide for equalizing the valuations of unseated lands

CONNECTICUT WESTERN RESERVE.

The bill to authorize the President of the United States to accept, for the United States, a cession of jurisdiction of the territory west of Pennsylvania, commonly called the Western Reserve of Connecticut, was read the third time; and upon the question being put, Shall the bill pass?

Mr. ELMENDORF proceeded to show, in a very lengthy discussion of the subject, the invalidity of the claim of Connecticut to the land in question; and against the passing of the bill.

He was followed by Messrs. BIRD, and RANDOLPH, on the same side, and Messrs. EDMOND, E. GOODRICH, and HARPER, in favor of it.

The question was then taken by yeas and nays, and the bill passed—yeas 54, nays 36, as follows:

YEAS—George Baer, Bailey Bartlett, Jonathan Brace, John Brown, Robert Brown, Christopher G. Champlin, William C. C. Claiborne, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Albert Gallatin, Chauncey Goodrich, William Gordon, Andrew Gregg, Roger Griswold, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Archibald Henderson, Benjamin Huger, James H. Imlay, John Wilkes Kittera, Henry Lee, Silas Lee, Samuel Lyman, John Marshall, Lewis R. Morris, Peter Muhlenberg, Abraham Nott, Robert Page, Josiah Parker, Thomas Pinckney, Leven Powell, John Reed, Samuel Sewall, James Sheafe, William Shepard, John Smilie, George Thatcher, John Chew

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Sundry Bills, &c.

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Thomas, Richard Thomas, Joseph B. Varnum, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

NAVS—Willis Alston, Theodorus Bailey, John Bird, Phanuel Bishop, Samuel J. Cabell, Gabriel Christie, Matthew Clay, John Condit, William Cooper, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, John Fowler, Henry Glen, Edwin Gray, William H. Hill, David Holmes, George Jackson, Aaron Kitchell, James Linn, Nathaniel Macon, Anthony New, John Nicholas, Joseph H. Nicholson, Jonas Platt, John Randolph, John Smith, Richard Stanford, David Stone, Thomas Sumter, John Thompson, Abram Trigg, John Trigg, and Robert Williams.

FRIDAY, April 11.

SUNDRY BILLS.

Mr. HARPER, from the Committee of Ways and Means, presented a bill to enlarge the powers of Surveyors of the Revenue; which was twice read and committed to a Committee of the whole House on Monday next.

Mr. GRISWOLD, from the Committee of Revision and Unfinished Business, presented a bill for continuing in force, for a limited time, an act entitled "An act to prescribe the mode of taking evidence in cases of contested elections for members of the House of Representatives of the United States, and to compel the attendance of witnesses;" which was twice read, and ordered to be engrossed and read the third time on Monday next.

The House resolved itself into a Committee of the Whole on the bill making appropriations for the support of Government, for the year one thousand eight hundred; and, after some time spent therein, the Committee rose and reported several amendments thereto; which were severally twice read, and agreed to by the House.

Ordered, That the said bill and amendments be engrossed, and read the third time on Monday next.

The House resolved itself into Committee of the Whole on the bill to make appropriations for the Navy of the United States, during the year one thousand eight hundred; and, after some time spent therein, the Committee rose and reported several amendments thereto; which were severally twice read, and agreed to by the House.

Ordered, That the said bill and amendments be engrossed, and read the third time on Monday next.

The House resolved itself into a Committee of the Whole on the bill to authorize the sale and conveyance of lands, in certain cases, by the Marshals of the United States, and to confirm former sales; and, after some time spent therein, the Committee rose and reported several amendments thereto; which were severally twice read, and agreed to by the House.

Ordered, That the said bill and amendments be engrossed, and read the third time on Monday next.

The House resolved itself into a Committee of the Whole on the bill to continue in force the act in addition to the act for the punishment of certain crimes against the United States; and, after

some time spent therein, the Committee rose and reported the bill without amendment.

Ordered, That the said bill be engrossed, and read the third time on Monday next.

The House resolved itself into a Committee of the Whole on the bill to incorporate a company by the name and style of "The Mine and Metal Company;" and, after some time spent therein, the Committee rose and reported progress, and had leave to sit again.

SATURDAY, April 12.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting a statement exhibiting the tonnage of the shipping of the United States at the close of the year one thousand seven hundred and ninety-eight; which were read, and ordered to lie on the table.

The House then resolved itself into a Committee on the bill to support and repair certain light-houses at New London, &c.; which was agreed to, and ordered to be engrossed.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act authorizing Seth Harding to locate certain lands in the Territory of the United States Northwest of the Ohio;" to which they desire the concurrence of this House.

Ordered, That the said bill be referred to the Committee who were instructed, on the twenty-fifth of February last, to prepare and report a bill appropriating a tract of land sufficient to satisfy the claims of the Nova Scotia and Canada refugees, and designating the mode in which their respective bounties in land shall be located.

MINE AND METAL COMPANY.

The House again went into Committee on the bill to incorporate a company by the name and style of the Mine and Metal Company, when the debate was continued. Messrs. SEWALL, CHAMPLIN, WALN, S. SMITH, PARKER, and J. BROWN, spoke in favor of the bill and against the motion to strike out. Messrs. NICHOLAS and MACON spoke in favor of striking out the section.

Mr. KITCHELL moved for the Committee to rise; he thought more information might be obtained of the prospect of success attending this experiment. He said there was a gentleman of much respectability who had superintended the works before the war, to whose opinion he should be willing to pay much deference, and which the Committee might procure in two days.

After some few observations, the Committee rose, and on the question for leave to sit again, it was carried—44 to 33.

LOAN OFFICE CERTIFICATES.

The House resolved itself into Committee on the report of the Committee of Claims, which was instructed to inquire whether any, and what, alterations would be necessary to be made in the act passed the 12th June, 1798, respecting loan office and final settlement certificates, indents of interest, &c.

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Courts of the United States, &c.

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The Committee of Claims entered in their report into a course of reasoning on the subject, and concluded with an opinion that no alteration ought to be made in the law of June, 1798.

Mr. D. FOSTER hoped the report would not be agreed to. He argued the propriety of granting this species of claim, which was very different from claims in general, and in which no imposition could be perpetrated. He thought it but just to continue the extension of the law for a longer period.

MESSRS. HARPER, GORDON, DANA, SHEPARD, HILL, and READ, also supported the rights of this description of claim, and the justice of extending the bill to them.

MESSRS. GRISWOLD, MACON, S. SMITH, EDMUND, and VARNUM, spoke in favor of the report.

The report was agreed to—yeas 40, nays 30.

The committee also reported that the same decision (whatever it might be) ought to apply to the petitions of Henry and Sarah Waters, and of Lucas Ames; which was referred to the same Committee. This was likewise agreed to.

On the question for the House to concur in the report of the Committee of the Whole, it was carried.

MONDAY, April 14.

Mr. HARPER, from the committee to whom was referred the bill respecting patents, &c., and the amendments of the Senate thereto, reported their opinion that the House ought to agree with the said amendments.

The House concurred.

Mr. DAVIS laid on the table a resolution that the next annual meeting of Congress should be on the first Monday in December next.

The following engrossed bills were read the third time, and passed, viz:

An act making appropriations for the support of Government for the year 1800;

An act to make appropriations for the Navy of the United States for the year 1800;

An act to continue in force for a limited time an act entitled an act prescribing the mode of taking evidence in cases of contested elections of members of the House of Representatives of the United States, and to compel the attendance of witnesses;

An act to authorize the sale and conveyance of lands, in certain cases, by the Marshals of the United States, and to confirm former sales;

An act to continue in force an act in addition to an act for the punishment of certain crimes against the United States;

An act to provide for rebuilding the light-house at New London, for the support of a light-house at Clark's Point, and for the erection and support of the light-house at Wigwam Point, and for other purposes.

COURTS OF THE UNITED STATES.

On motion of Mr. HARPER, the Judiciary bill was called up; when Mr. KITCHELL, after observing that this bill, though in a different shape,

had been before the House, by whom it was referred to a select committee, after, in his opinion, an expression of disapprobation of the principle, and a new bill having been reported, moved that the further consideration thereof be postponed to the first Monday in December next.

A warm and lengthy debate was had on the motion for postponement, on which the question was taken, and decided in the affirmative—yeas 48, nays 46, as follows:

YEAS—Willis Alston, Theodorus Bailey, Phanuel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William Charles Cole Claiborne, John Davenport, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, Dwight Foster, John Fowler, Jonathan Freeman, Albert Gallatin, Edwin Gray, Andrew Gregg, Thomas Hartley, David Holmes, George Jackson, James Jones, Aaron Kitchell, Michael Leib, Matthew Lyon, James Linn, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, John Randolph, William Shepard, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Joseph B. Varnum, and Robert Williams.

NAYS—George Baer, Bailey Bartlett, James A. Bayard, Jonathan Brace, John Brown, Christopher G. Champlin, William Cooper, Samuel W. Dana, Franklin Davenport, John Dennis, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, William B. Grove, Robert Goodloe Harper, Archibald Henderson, William H. Hill, Benjamin Huger, James H. Inlay, Henry Lee, Silas Lee, Samuel Lyman, John Marshall, Lewis R. Morris, Abraham Nott, Robert Page, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, John Rutledge, jr., Samuel Sewall, James Sheafe, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

JAMES T. BISHOP.

Mr. WALN presented a petition of James T. Bishop, who stated, that he came to this country in 1794; that he took the oath of allegiance agreeably to the laws of Pennsylvania; that he went to Europe in 1796, with the intent of settling his affairs, so as to make his permanent residence in the United States, where he arrived in 1798; he then, supposing his former oath sufficient, neglected to make the application before the law precluded him. He prays that a law may be passed in his favor to admit him to become a citizen.

Referred to a select committee.

ADDITIONAL DUTY ON SALT.

The House resolved itself into a Committee on the resolution reported by the Committee of Revision and Unfinished Business, that the said committee have leave to bring in a bill to continue in force an act laying an additional duty on salt.

The Committee of the Whole agreed to the resolution, and rose and reported it.

On the question for the House to concur, Mr. CLAY observed it was a subject of very great importance to people who resided in the back coun-

tries, who used a considerable quantity of salt for their cattle; he moved for the yeas and nays.

Mr. RANDOLPH spoke against agreeing with the reported resolution.

The question was then taken and decided in the affirmative—yeas 54, nays 38, as follows:

YEAS—George Baer, Theodorus Bailey, Bailey Bartlett, James A. Bayard, Jonathan Brace, John Brown, Christopher G. Champlin, William Cooper, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, William Gordon, Edwin Gray, Roger Griswold, William Barry Grove, Robert Goodloe Harper, William H. Hill, Benjamin Huger, James H. Imlay, Aaron Kitchell, Silas Lee, Samuel Lyman, James Linn, Lewis R. Morris, Abraham Nott, Robert Page, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, John Rutledge, jr., Samuel Sewall, James Sheafe, William Shepard, John Smith, Richard Dobbs Spaight, George Thatcher, John Chew Thomas, Richard Thomas, Philip Van Cortlandt, Peleg Wadsworth, Robert Waln, and Lemuel Williams.

NAYS—Willis Alston, Phaniel Bishop, Rob't Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William Charles Cole Claiborne, Thomas T. Davis, John Dawson, Joseph Dickson, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Gallatin, Andrew Gregg, Thomas Hartley, Archibald Henderson, David Holmes, George Jackson, James Jones, Matthew Lyon, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, John Randolph, John Smilie, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Joseph B. Varnum, Robert Williams, and Henry Woods.

STEPHEN SAYRE.

The House resolved itself into Committee on the report of the Committee of Claims upon the petition of Stephen Sayre, who prayed compensation as Secretary of Legation to Mr. Arthur Lee, and other services performed for the United States at Berlin, during the war.

The report was very lengthy, and concludes with an opinion that after full consideration, the former determination of the House was proper; and that the petitioner ought again to have leave to withdraw his papers.

Mr. HARPER made a lengthy answer to the report; when the question was taken on agreeing therewith and carried—yeas 46, nays 27. The House concurred.

TUESDAY, April 15.

The House took up the report of the Post Road Committee on the amendments proposed by the Senate to the bill to alter and establish certain post roads; several of which were agreed and some disagreed with.

The House resolved itself into Committee on the bill for the regulation of public arsenals and magazines; which was amended and ordered to be engrossed for its third reading.

Mr. D. FOSTER, from the committee appointed to inquire whether any and what alterations ought

to be made in the law, entitled "An act to prohibit the carrying on the slave trade from the United States to any foreign place or country," reported an additional bill on that subject, which was twice read and committed to the whole House.

Mr. GRISWOLD from the Committee of Revision and Unfinished Business, reported a bill to continue in force an act entitled "an act laying additional duty on salt imported into the United States and for other purposes," which was read and referred to a Committee of the whole House.

A message from the Senate, informed the House that the Senate insist on their amendments, disagreed to by this House, to the bill, entitled "An act to establish a General Stamp Office," in the fifth line of the sixth section thereof. The Senate also insist on their amendments disagreed to by this House, in the second and fourth lines of the seventh section; and do recede from their amendment in the ninth line of the sixth section of the said bill.

Mr. HARPER, from the managers appointed on the part of this House, to confer with the managers appointed on the part of the Senate, on the subject-matter of the amendments depending between the two Houses to the bill, entitled "An act to establish a General Stamp Office," made a report; which was read and considered: Whereupon,

Resolved, That this House doth recede from their disagreement to the amendments insisted on by the Senate to the said bill; and doth agree to the same, with amendments.

A message was received from the Senate, informing the House that they had passed the act to authorize the defence of our merchant vessels against French depredations; and an act for the preservation of peace with the Indians on the frontiers, with sundry amendments. Also that they had passed a bill entitled an act permitting the exportation of certain parcels of gunpowder, muskets, and cutlasses, to which they desire the concurrence of the House.

VIRGINIA LAND WARRANTS.

The House went into Committee on the report of the Committee of Claims on the petition of Temple Elliot, William Boyce, and Simon Somers, who prayed for patents of lands for services as officers in the Virginia line.

It appeared that these officers had a legal claim upon the State of Virginia, which gave them warrants, but, immediately subsequent, it appeared that the lands, now a part of Kentucky and a part of the Northwestern Territory, were ceded to the United States, but which on that account the petitioners were prevented from locating. They therefore preferred their petitions to the General Government to confirm the former grants, by a law in their favor.

MESSRS. NEW, H. LEE, MARSHALL, RANDOLPH, EGGLESTON, NICHOLAS, and CHAMPLIN, warmly supported the justice of the case, in favor of men who were active in the service of the United States, and the injustice of refusal. It was stated that a very liberal cession of land, sufficient for a nation,

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was ceded to the United States by Virginia, who reserved out of it only enough to satisfy the claim of her officers in the Continental troops. It therefore to the United States became a claim from Virginia that the Government might enable her to fulfil her engagements to the officers of the Continental line. The amount of claims of this nature was supposed to amount to from 50 to 100,000 acres, which, compared to the immense cession, was nothing to the Government, but much to the meritorious individuals.

Messrs. D. FOSTER, MACON, and GALLATIN, vindicated the report, on the ground that there was no legal claim against the Government, but that it stood in the same situation with many others which had been refused; and except a law was passed to compensate all meritorious services which had been refused on various accounts, it would be improper to favor those individuals. It was adopting a principle, it was urged, to which no limits could be ascertained; it might even extend to the opening of commutation again.

The report was at length disagreed to—yeas 21, nays 45,

WEDNESDAY, April 16.

An engrossed bill for the regulation of public arsenals was read the third time and passed.

Mr. BRACE, from the committee appointed on the petitions of several persons in the Northwestern Territory, respecting the lands purchased by Judge Symmes, having obtained leave, presented their report, and "A bill to provide for the disposition of the lands between the Great and Little Miami rivers," which was twice read and referred to the Committee of the Whole.

Mr. S. SMITH, from the Committee of Commerce, reported a bill to establish the district of Kennebunk, and to annex Lyme to New London; to alter the districts of Bermuda Hundred and City Point, and therein to amend the act entitled an act to regulate the collection of duties on imports and tonnage.

The bill was read twice and committed.

The House took up the amendments of the Senate to the following bills, which they agreed to: An act authorizing the defence of the merchant vessels of the United States &c., and an act to regulate trade, and to preserve peace with the Indians.

The House also took up the act permitting the exportation of certain arms and ammunition; which was read, and referred to the Committee of Commerce and Manufactures.

The House then resolved itself into a Committee on the bill supplementary to the laws now in force, fixing the pay of the officers of the Senate, and House of Representatives.

The blanks being filled the bills were ordered to be engrossed for a third reading to-morrow.

Mr. LEE called up his resolution for the appointment of a committee to draw up rules and regulations respecting the District of Columbia. Five members were appointed.

DISPUTED ELECTIONS FOR PRESIDENT, &c.

The House went into a Committee on the bill from the Senate prescribing the mode of deciding disputed elections for President and Vice President.

The bill having been read, and the first section being under consideration,

Mr. MARSHALL, after speaking of the importance of the subject before the Committee, and the necessity of some salutary mode being adopted for this object, expressed his doubts of the propriety of two points in this first section of the bill, to wit: first, that the Senate were to name the Chairman of the Grand Committee and secondly that the opinion of this Grand Committee was to be final. He therefore moved to strike out of the section so much as related to those principles, and read what he wished to introduce for a substitute.

Some debate was had on this motion, when Mr. NICHOLAS expressing a desire to acquire all the information that was necessary to digest the new principles, moved the Committee to rise; which was done accordingly, and it obtained leave to sit again.

MILITARY APPROPRIATIONS.

The House then went into Committee on the bill making appropriations for the Military Establishment for the year 1800. The several items were filled as follows:

Pay of the Army	-	-	\$1,018,620
Subsistence	-	-	787,786
Forage	-	-	36,672
Clothing	-	-	257,955
Horses, to replace deficiencies	-	-	5,000
Bounties and premiums	-	-	14,000
Hospital department	-	-	51,000
Promoting civilization among the Indians	-	-	15,000
Running lines of demarcation	-	-	4,000
Defence of the frontiers, &c.	-	-	60,000
Loss of horses and other contingencies	-	-	57,956
Invalid pensions for one year	-	-	93,000
Quartermaster's department	-	-	528,065

Making a total appropriation of - 3,042,576

The bill was then ordered to be engrossed and read the third time to-morrow.

VIRGINIA LAND WARRANTS.

Ordered, That the Committee of Claims be discharged from the further consideration of the petition of Alexander Spotswood, referred to them on the twenty-eighth of February last, and that the same be referred to the Committee of the whole House to whom was committed, on the twenty-fifth of February last, the report of the Committee of Claims on the several petitions of Temple Elliot, of William Boyce, and of Simon Sommers.

The House again resolved itself into a Committee of the Whole on the report of the Committee of Claims, made the twenty-fifth of February last, on the several petitions of Temple Elliot, of William Boyce, and of Simon Sommers; to which Committee of the Whole was also referred the

report of the Committee of Claims on the memorial of David Jones and William Rogers; and, after spending some time therein, the SPEAKER resumed the Chair, and Mr. RUTLEDGE reported that the Committee had, according to order, again had the said reports under consideration, and directed him to report to the House their disagreement to the report of the Committee of Claims on the several petitions of Temple Elliot, of William Boyce, and of Simon Sommers; and their agreement to the report on the memorial of David Jones and William Rogers.

The said report on the several petitions of Temple Elliot, of William Boyce, and of Simon Sommers, being read in the words following, to wit:

"That the several petitioners seek for grants of land from the United States, in consideration of services performed in the Army of the United States, in the Virginia line, during the Revolutionary war. A report on the said petition of Temple Elliot, was made upon the second of April, one thousand seven hundred and ninety-eight, and is herewith submitted. The committee are of opinion it would be proper for the House to agree to the said report,

"The petitions of Mr. Boyce and of Mr. Sommers are grounded on the same principles with those of Mr. Elliot, and the committee report that the same decision which shall be made on the petition of Mr. Elliot, should be applied to the others.

"The Committee of Claims, to whom was referred the petition of Temple Elliot, heir of Thomas Elliot, late Colonel in the Army of the United States, report: That the petitioner states that the said Thomas Elliot was a Colonel in the Virginia line of Continental troops, during the late war, and was induced to retire from service on account of ill health, at a period when he was not entitled to the bounty in lands engaged by law to certain officers and soldiers of the Continental Army; that, in consequence of his meritorious services, however, the State of Virginia, by a special resolve, on the sixteenth day of June, one thousand seven hundred and eighty-four, granted him a Colonel's bounty in lands, which lands the petitioner has, at considerable expense, had surveyed, platted, and located, in the tract reserved from the cession made by the State of Virginia to the United States, for the purpose of satisfying the grants of land made by said State to officers and soldiers of the Virginia line on Continental establishment, but that he cannot obtain patents for the same from the President of the United States, without the special interposition of Congress.

"The committee find that, in the act of cession which passed in the State of Virginia, on the twentieth of October, one thousand seven hundred and eighty-three, and which was accepted by Congress on the first day of March, one thousand seven hundred and eighty-four, there is the following clause:

"That, in case the quantity of good land on the southeast side of the Ohio, upon the waters of Cumberland river, and between the Green river and Tennessee river, which have been reserved by law for the Virginia troops upon Continental establishment, should, from the North Carolina line bearing in further upon the Cumberland lands than was expected, prove insufficient for the legal bounties, the deficiency should be made up to the said troops in good lands, to be laid off between the rivers Scioto and Little Miami, on the northwest side of the river Ohio, in such propor-

tion as has been engaged to them by the laws of Virginia."

"As it then appears, by Mr. Elliot's statement, that the deceased Colonel Elliot was not within the provision contemplated by the act of cession, and the cession was in fact made to, and accepted by, Congress before any grant of lands was made to Colonel Elliot, the committee are of opinion that the petitioner has no legal or equitable claim to have the said grant of lands, made by the State of Virginia, satisfied out of lands of the United States; and, therefore, they recommend that he have leave to withdraw his petition."

The question was taken, that the House do agree with the Committee of the whole House in their disagreement to said report, and resolved in the affirmative—36 to 23.

The report of the Committee of Claims on the memorial of David Jones and William Rogers, being then read, in the words following, to wit:

"That they represent that they had the honor of serving the United States in the capacity of Brigade Chaplains, in the Pennsylvania line, during the Revolutionary war with Great Britain; and that, as public servants, they think themselves entitled to all the favors and emoluments conferred on the other parts of the Army; that, finding they were not entitled by the former resolution of Congress to military bounty lands, and apprehending the omission was not intentional, they now, in their own behalf, and that of their absent brethren, solicit Congress to grant to the late Chaplains such quantities of land as they may be thought to merit.

"It is understood that the Chaplains regularly appointed to the several brigades of the late Continental Army, and who served until the close of the war, were entitled to, and did receive, the same pay and emoluments as were granted and paid to Lieutenant Colonels in the line of the Army, the right to military bounty lands only excepted.

"When the grants of land were promised by Congress to such officers and soldiers as should engage, and actually serve, in the Army till the close of the war, it does not appear that it was thought proper or expedient to extend the promise of such grants to the Chaplains, nor does it appear whether the question was or was not agitated. It is presumable that Congress then supposed the encouragement offered to gentlemen to serve in that capacity was sufficient. The committee are of opinion, at this late day, it would not be expedient or advisable to go into a consideration of the subject; and, therefore, recommend that the petitioners should have leave to withdraw their petition."

The question was taken, that the House do agree with the Committee of the whole House in their agreement to the said report, and resolved in the affirmative.

Resolved, That a committee be appointed to prepare and report a bill authorizing the President of the United States to grant patents for the lands due to certain officers for their military services in the Continental Army, during the Revolutionary war; which, by resolutions of the Legislature of Virginia, were granted to them, and which have hitherto been withheld from them in consequence of the act of cession made by the said State to the United States.

Ordered, That Mr. MARSHALL, Mr. NEW, and Mr. HENRY LEE, be appointed a committee, pursuant to the said resolution.

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WILLIAM TAZEWELL.

The House resolved itself into a Committee on the report of the select committee on the petition of William Tazewell, secretary to Mr. Gerry; he remained in Paris, and performed other services at the Hague and at London, but in returning he was captured. The Committee reported a resolution that the allowance in consequence of his capture should be granted.

The subject caused some debate, after which the resolution was agreed to—39 to 30. The House took up the report, and agreed to it, and a committee was appointed to report a bill conformably.

THURSDAY, April 17.

The bill entitled an act making appropriations for the Military Establishment of the United States for the year 1800, and the bill supplementary to the laws now in force, fixing the compensation to the officers of the Senate and House of Representatives, were respectively read a third time and passed.

A message was received from the Senate, informing the House that the Senate had passed the bill supplemental to the act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a Government in the Mississippi Territory, with amendments.

The bill and amendments were referred to a select committee, and ordered to be printed.

DISPUTED ELECTIONS OF PRESIDENT, &c.

The House again resolved itself into a Committee of the Whole on the bill prescribing the mode of deciding disputed elections of President and Vice President, and Mr. MARSHALL's amendment being under consideration:

Mr. RANDOLPH moved to amend the amendment by striking out that part which directs the Grand Committee to be chosen by ballot, and inserting that they shall be chosen by lot.

Mr. NICHOLAS then rose, and after noticing the amendments which had been offered, and animadverting at considerable length upon the unconstitutionality of the bill, moved to strike out the first section.

He was followed by Mr. MARSHALL, in opposition, and Mr. RANDOLPH in support of the motion. The Committee then rose, and obtained leave to sit again.

A message from the Senate, informed the House that they have passed the following bills with amendments, viz: an act for the government of the Navy of the United States; an act to provide for the removal of the Government of the United States, and an act to fix the compensation of the Paymaster General, and the Assistant to the Adjutant General.

FRIDAY, April 18.

The amendments of the Senate to the bill to provide for the removal and accommodation of the Government of the United States, were referred to a select committee. The amendments to the
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bill for the better government of the Navy of the United States, and to the bill fixing the compensation of the Paymaster General and Assistant to the Adjutant General were concurred in by the House.

DISPUTED ELECTIONS OF PRESIDENT, &c.

Mr. NICHOLSON called for the order of the day on the bill prescribing the mode of deciding disputed elections of President and Vice President of the United States.

Mr. HARPER moved that it be postponed till Monday.

Mr. NICHOLSON, after expressing his abhorrence of the principles contained in the bill, then moved that it be postponed till the first Monday in December next.

MESSRS. HARPER, DANA, RUTLEDGE, and MARSHALL, opposed this motion; and Messrs. S. SMITH, GALLATIN, RANDOLPH, NICHOLSON, and NICHOLAS, supported it.

The question was taken by yeas and nays, and decided in the negative—yeas 48, nays 52, as follows.

YEAS—Willis Alston, Theodorus Bailey, Phanuel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William Charles Cole Claiborne, John Condit, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Gallatin, Edwin Gray, Andrew Gregg, John A. Hanna, Thomas Hartley, Joseph Heister, Archibald Henderson, David Holmes, George Jackson, James Jones, Aaron Kitchell, Michael Leib, Matthew Lyon, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, John Randolph, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

NAYS—George Baer, Bailey Bartlett, James A. Bayard, John Bird, Jonathan Brace, John Brown, Christopher G. Champlin, William Cooper, Samuel W. Dana, Franklin Davenport, John Davenport, John Dennis, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, William H. Hill, Benjamin Huger, James H. Inlay, Henry Lee, Silas Lee, Samuel Lyman, James Linn, John Marshall, Lewis R. Morris, Abraham Nott, Robert Page, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, John Rutledge, jr. Samuel Sewall, James Sheafe, William Shepard, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Wain, Lemuel Williams, and Henry Woods.

Mr. HARPER's motion for postponement till Monday, was then agreed to—ayes 54.

ADDITIONAL DUTY ON SALT.

The bill to continue in force an act laying an additional duty on salt, imported into the United States, was taken up in Committee of the Whole; when

Mr. S. SMITH, with a view to make the tax perpetual, and the easier to be increased if neces-

sary hereafter, moved to strike out that part of the bill which limits its duration to ten years.

This motion caused a long debate, and was finally negatived—yeas 40, nays 48.

Mr. MACON then moved to limit the operation of the law to *two* years, instead of *ten*, as the bill contemplates; which was also negatived—yeas 44, nays 47. The Committee then rose, and

Mr. RANDOLPH renewed the motion for inserting two years; which was negatived—yeas 44 nays 50, as follows:

YEAS—Willis Alston, Phaniel Bishop, Rob't Brown, Samuel J. Cabell, Matthew Clay, William Charles Cole Claiborne, John Condit, John Dawson, Joseph Dickson, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Gallatin, Edwin Gray, Andrew Gregg, John A. Hanna, Thomas Hartley, Joseph Heister, Archibald Henderson, David Holmes, Geo. Jackson, James Jones, Michael Leib, Matthew Lyon, James Linn, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, Abraham Nott, John Randolph, John Smith, John Smilie, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Joseph B. Varnum, Robert Williams, and Henry Woods.

NAYS—George Baer, Theodorus Bailey, Bailey Bartlett, James A. Bayard, John Bird, Jonathan Brace, John Brown, Christopher G. Champlin, William Cooper, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Henry Glen, Chauncey Goodrich, Elizur Goodrich, William Gordon, Roger Griswold, Robert Goodloe Harper, William H. Hill, Benjamin Huger, James H. Inlay, Aaron Kitchell, Henry Lee, Silas Lee, Samuel Lyman, John Marshall, Lewis R. Morris, Robert Page, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, John Rutledge junior, Samuel Sewall, William Shepard, Samuel Smith, George Thatcher, John Chew Thomas, Richard Thomas, Philip Van Cortlandt, Peleg Wadsworth, Robert Waln, and Lemuel Williams.

The bill was then ordered to be read a third time on Monday.

A message was received from the Senate, notifying that the Senate have passed a bill to fix the rank and pay of the commanding officer of the Marine Corps; and also the resolution sent from this House, authorizing the President of the Senate and Speaker of the House of Representatives to close the present session, by adjourning their respective Houses on the first Monday in May next, with an amendment.

The amendment to the first named bill was concurred in by the House.

To the resolution for adjournment, the Senate propose to strike out *first*, and insert *second*, which was concurred in by the House.

Mr. MARSHALL brought in a bill to authorize the allowance of a credit to William Tazewell, and also a bill to authorize the issuing of certain patents; which were respectively read and committed for Monday.

MONDAY, April 21.

Mr. PARKER, from the committee appointed, presented a bill authorizing the purchase of timber for naval purposes; which was read twice, and

committed to a Committee of the whole House to-morrow.

An engrossed bill to continue in force an act for laying an additional duty on salt imported into the United States, and for other purposes, was read and passed—yeas 37, nays 28.

The House went into Committee on the bill to establish the districts of Kennebunk, Bermuda, and City Point, which was ordered to be engrossed for a third reading to-morrow.

The House also went into a Committee on the report of the Committee of Claims in favor of the petition of Thomas Johnson, for pay, &c., to a company who went against the Indians in 1794. The report was agreed to, and a bill ordered to be brought in conformably thereto.

A message was received from the Senate informing the House that they had agreed to the bill for the division of the Northwestern Territory into two separate governments, with amendments.

A bill was received from the Senate entitled "An act in addition to the act entitled 'An act to prohibit the carrying on the slave trade from the United States to any foreign place or country;'" to which they desired concurrence.

The bill was referred to the Committee of the Whole; to which was referred a bill of the same purport reported by a select committee.

Mr. RUTLEDGE from the committee to whom was referred the amendment of the Senate to the bill for settling the limits of the State of Georgia, and for establishing the Mississippi Government, made a report, which was referred to a Committee of the whole House.

ADMIRALS IN THE NAVY.

Mr. PARKER, from the Naval Committee, reported a bill for the appointment of Admirals for the Navy.

[This bill provides for the appointment of one Vice Admiral and four Rear Admirals, and arranges the fleet into squadrons.]

It was read a first time, and on the question for the second reading, it was carried—37 to 31. Having been read a second time, Mr. GALLATIN moved its postponement till the first Monday in December next.

The SPEAKER said the question was, whether it should be committed or not? The question for commitment was carried, 37 to 32. The question was then to make it the order of the day for the first Monday in December next.

Mr. EGGLESTON hoped it would be postponed. He said it would be agreed upon to suspend the building of the 74's for the present year; in addition to this our difference with France would most probably be soon adjusted. Another reason was, it would incur an addition of expense, which it would be improper to go into, having recently agreed to borrow \$3,500,000. He was really surprised to hear such a bill proposed; he scarcely could think his colleague sincere.

Mr. PARKER said that the building of the 74's was not suspended, but it was thought advisable not to hurry their building. He stated a number of conveniences that would attend the new ar-

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rangement; that the whole expense would not be more than \$10,000, but owing to the advantages, he believed it would be a real saving. He did not think there could be any certainty of a peace, from the revolutionary disposition of France; but even if it was certain that peace would be made with that nation, it was not certain that the combined Powers would not renew their hostilities. He wished this measure to be adopted, even if it was at the expense of the Army. The return of peace would render the Army nugatory, except just enough for the garrisons; the whole of the Army expenses, he said, was upwards of four millions, but the whole sum expended on the Navy (really a more efficient defence and advantage) was little more than two millions. He wished our naval defence to be nurtured and rendered respectable, for which the squadron arrangements and appointments of suitable commanders was necessary.

Mr. CHAMPLIN also spoke in favor of the bill, and in favor of its commitment for an earlier day.

Mr. CLAIBORNE could not think the gentleman (Mr. PARKER) sincere in his professions that the Army was not necessary, when he perceived that every motion to reduce the Army, which by other gentlemen was thought absolutely necessary, had as uniformly been opposed by that gentleman. Mr. C. said he did not look forward to a period when the Navy as well as the Army would be unnecessary. This appointment might take place at any time when there should be necessity of it; and, therefore, as it was not pretended the 74's could be built before the next session, it would then be time enough to think of voting these officers.

The SPEAKER said that it was unknown in the Parliamentary proceedings of any country that the merits of a bill were discussed on a motion for postponement; he must therefore say that any discussion on the bill was out of order, and that gentlemen must confine themselves merely on the question of the day this bill should be made the order for.

Mr. HARPER stated some of the inconveniences that must attend gentlemen who brought in, or would wish to support a bill being presented, recommending its provision by a motion to postpone; he conceived the bill a valuable one, and wished for an opportunity of endeavoring to convince the House of that fact, but he was precluded by the decision of the Chair, he must therefore beg leave to appeal from the decision.

The question was put, "Is the decision of the Chair right?" and carried—yeas 65.

Mr. SMITH said he should vote for this bill being the order for December next, but if the 74's were then ordered to proceed, he should vote for this bill, if then proposed.

The yeas and nays were taken on the question, "Shall this bill be postponed until the first Monday in December next?" and decided in the negative—yeas 44, nays 45, as follows:

YEAS—Willis Alston, Theodorus Bailey, Phanuel Bishop, Robert Brown, Samuel J. Cabell, Matthew Clay, William C. C. Claiborne, John Condit, Thomas

T. Davis, John Dawson, Joseph Eggleston, Lucas El-mendorf, John Fowler, Albert Gallatin, Andrew Gregg, William Barry Grove, John A. Hanna, Joseph Heister, David Holmes, George Jackson, James Jones, Michael Leib, Matthew Lyon, James Linn, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, Abraham Nott, John Randolph, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Joseph B. Varnum, and Robert Williams.

NAYS—George Baer, Bailey Bartlett, James A. Bayard, Jonathan Brace, John Brown, Christopher G. Champlin, William Cooper, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, George Dent, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, Robert Goodloe Harper, Benjamin Huger, James H. Inlay, Henry Lee, Silas Lee, Samuel Lyman, Lewis R. Morris, Robert Page, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, John Rutledge, jun., Samuel Sewall, James Sheafe, William Shepard, George Thatcher, John Chew Thomas, Richard Thomas, Robert Waln, Lemuel Williams, and Henry Woods.

The bill was then made the order for to-morrow.

Mr. HARPER, after again mentioning the inconveniences that must attend the decision of the Speaker against the merits of a subject being entered into, moved that the following might be added to the standing rules and orders of the House:

"On a motion to postpone any bill, motion, or resolution, the merits of the said bill, motion, or resolution, may be discussed."

It was laid on the table.

ELECTION OF PRESIDENT, &c.

Mr. HARPER moved that the Committee of the Whole should be discharged from the further consideration of the bill from the Senate, respecting the election of President and Vice President, for the purpose of committing it to a select committee. He thought some essential alterations were wanting, which could not be incorporated in the present bill in the House; he particularly referred to the powers of the Committee.

Mr. MARSHALL supported the motion.

Messrs. GALLATIN and NICHOLAS opposed the motion, and hoped, first, the principle would be decided whether there should be a committee at all or not, before its commitment.

The motion was carried—yeas 54. Seven members were appointed.

MINE AND METAL COMPANY.

The House then went into a Committee on the bill to incorporate a company by the name and title of the Mine and Metal Company. A motion to strike out the 3d section, which provides that when \$150,000 in shares are subscribed, the Secretary of the Treasury shall be empowered to subscribe \$50,000 for the United States, was before the Committee.

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Limits of Georgia.

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A lengthy debate ensued upon the motion to strike out—at length the question was taken thereupon and was 46 to 31.

Mr. WALN then proposed a new section in the place of the one stricken out, which provided that the President of the United States might, whenever the stock of the said company should amount to \$150,000, cause the Secretary of the Treasury to lend to them a sum not exceeding \$50,000, for the purpose of erecting a machine for rolling the copper into sheets, upon certain security being given for the payment thereof in ten years, at an interest of six per cent.

This was carried, and the bill was ordered for a third reading to-morrow.

TUESDAY, April 22.

An engrossed bill to incorporate a company by the name and style of the Mine and Metal Company was read, and on the question for its passing, it was negatived—36 to 34.

The bill to establish a district at Kennebunk, and annex Lyme to New London, was recommitted to the whole House; when, some amendment having been made, the bill was ordered to be engrossed.

Mr. D. FOSTER, from the Committee of Claims, to whom was referred the bill from the Senate for the relief of the legal representatives of Samuel Lapsley, deceased, and also on a number of petitions respecting lost and destroyed certificates, made a report, which was referred to a Committee of the whole House.

The amendments of the Senate to the bill for the division of the Northwestern Territory were taken up, and referred to a committee of five members.

Mr. DENNIS, from the committee to whom were referred the amendments of the Senate to the bill for the removal and accommodation of the Government of the United States, reported their opinion that it was expedient for the House to accede thereto. The House took up the report and agreed to it.

The House went into Committee on the bill to provide for equalizing the valuation of unseated lands. The bill was agreed to, and ordered to be engrossed.

The House also resolved itself into a Committee on the bill to enlarge the powers of the Surveyors of the Revenue.

Mr. DAVIS called up his resolution fixing the next annual meeting of Congress on the first Monday in November next; which, after a long debate, was negatived—yeas 27.

Mr. COOPER proposed an amendment, which it appearing difficult to incorporate, and some objections having been made, the Committee rose and obtained leave to sit again.

Mr. CLAIBORNE, from the committee appointed to inquire into the expediency of continuing in force the law respecting trading houses with the Indians, reported a resolution for reviving that law for one year. It was referred to a Committee of the Whole.

LIMITS OF GEORGIA.

The House went into Committee on the report of the select committee on the amendments of the Senate to the bill for an amicable settlement of limits with the State of Georgia, and for the establishment of a government in the Mississippi Territory.

The report was, to agree to all the amendments except one.

The Senate had stricken out that part of the bill which prevented the Governor of the Territory from proroguing and dissolving the Legislature at his pleasure.

Mr. RANDOLPH hoped the measure would not be agreed to.

Mr. RUTLEDGE spoke in favor of the measure, he believed it would be the saving of the bill, which held out many great advantages to these people, and, in fact, amounted to all they asked. He observed that the agent, from that country, who was in town, would rather give up this principle than in the least jeopardize the bill.

Mr. NICHOLAS spoke on the other side.

The motion to agree with the Senate was carried—45 to 38.

The Senate also introduced a new section respecting the separate claim of the State of Georgia and of individual claimants; also respecting the extinguishment of an Indian claim to certain lands within the State.

A motion by Mr. JONES, to strike out, caused a lengthy debate; the Committee rose without a decision, and obtained leave to sit again.

HOOR OF MEETING.

Mr. RUTLEDGE observed that great inconvenience attended the meeting of the House at ten o'clock, on account of the necessity of committees meeting in the morning, whereby many gentlemen were prevented attending, while perhaps an engrossed bill (as was the case this morning) might be negatived, which had really a large majority of the House in its favor. He therefore moved that when the House adjourned, it should be till 11 o'clock.

This was carried—42 to 33.

WEDNESDAY, April 23.

An engrossed bill to provide for equalizing the valuations of unseated lands, was read the third time and passed.

An engrossed bill to establish the district of Kennebunk, and to annex Lyme to New London, and to alter the district of Bermuda Hundred and City Point, and therein to amend the act, entitled "An act to regulate the collection of duties on imports and tonnage," was read the third time and passed.

Mr. D. FOSTER, from the Committee of Claims, presented a bill directing the payment of a detachment of Militia under the command of Major Thomas Johnson, in the year one thousand seven hundred and ninety-four; which was read twice and committed to a Committee of the Whole House to-morrow.

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Limits of Georgia.

H. OF R.

A message from the Senate, informed the House that the Senate have passed the bill, entitled "An act to amend the act, entitled 'An act providing for the sale of the lands of the United States in the Territory Northwest of the Ohio, and above the mouth of Kentucky river,' with several amendments; to which they desire the concurrence of this House.

The said amendments were read, and ordered to be referred to Mr. HARRISON, Mr. BRACE, Mr. GORDON, Mr. DAVIS, Mr. GROVE, Mr. LYMAN, and Mr. GALLATIN.

A message was received from the Senate, informing the House that they had passed the bill, entitled "An act to authorize the President of the United States to accept, for the United States, a cession of jurisdiction of the territory west of Pennsylvania, commonly called the Western Reserve of Connecticut," with an amendment; to which they desire the concurrence of this House.

The House proceeded to consider the said amendment: Whereupon,
Resolved, That this House doth agree to the said amendment.

MINE AND METAL COMPANY.

Mr. S. SMITH, after expressing an opinion of the importance of the bill which had been unfortunately lost yesterday, moved the following resolution, to which he hoped there would be no objection, as the object was only to incorporate a company, without involving the Government of the United States:

"*Resolved*, That a committee be appointed to bring in a bill to incorporate a company for the purpose of procuring sheet copper, to be manufactured within the United States."

Mr. NICHOLAS wished to know if the motion was in order; and upon the SPEAKER's wishing time to decide, it was ordered to lie on the table.

LIMITS OF GEORGIA.

The House, in Committee of the Whole, resumed the consideration of the report of the select committee, to whom was referred the amendments of the Senate to the bill supplemental to the act for an amicable settlement of limits with the State of Georgia, and for the establishment of a government in the Mississippi Territory.

Mr. JONES's motion to strike out the latter part of the section being under consideration,

Mr. HARPER called for a division of the question. That part which authorizes the commissioners to settle those claims to the Georgia lands, which had been granted by one and revoked by a subsequent Legislature, being first in order:

Mr. GALLATIN opposed it, on the ground that it had not come regularly before the House; that the claimants had never applied for relief; and deprecated the manner in which it was introduced, as there could be but two votes on the most important measure that ever came before the House.

He was followed by Messrs. MARSHALL, and JONES, against the motion, and Messrs. RANDOLPH, NICHOLAS, and RUTLEDGE, in favor of it.

The question was then taken, and the motion for striking out agreed to—yeas 54, nays 39.

The Committee then rose, and had leave to sit again.

THURSDAY, April 24.

Mr. SMITH called up his resolution for appointing a committee to bring in a bill to incorporate a company for the manufacture of sheet copper; and upon the SPEAKER's declaring that, upon due investigation, he had no doubt the motion was in order, the resolution was adopted.

Mr. SMITH, Mr. MARSHALL, and Mr. WALN, were appointed the committee.

A message was received from the Senate, informing the House that they have passed the bill in addition to the act fixing the compensation of the officers of both Houses of Congress, with amendments, to which they request a concurrence.

LIMITS OF GEORGIA.

The House resolved itself into a Committee of the Whole on the amendment of the Senate to the bill supplemental to the act for an amicable settlement of limits with the State of Georgia; and, after further amending the amendment, the Committee rose.

Upon the question, whether the House should concur in the report of the Committee in their agreement to the amendment of the Senate, to strike out that part which abrogates the power of the Governor, given in the ordinance, to pro-rogue the General Assembly at his pleasure, it passed in the negative—yeas 42, nays 49, as follows:

YEAS—George Baer, Bailey Bartlett, James A. Bayard, Jonathan Brace, John Brown, Christopher G. Champlin, William Cooper, Samuel W. Dana, Franklin Davenport, John Davenport, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, Robert Goodloe Harper, James H. Inlay, Henry Lee, Silas Lee, Samuel Lyman, John Marshall, Lewis R. Morris, Robert Page, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, John Rutledge, jr., Samuel Sewall, James Sheafe, William Shepard, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

NAYS—Willis Alston, Theodorus Bailey, Phaniel Bishop, Robert Brown, Samuel J. Cabell, Matthew Clay, William Charles Cole Claiborne, John Condit, Thomas T. Davis, John Dawson, John Dennis, George Dent, Joseph Dickson, Joseph Eggleston, Lucas El-mendorf, John Fowler, Albert Gallatin, Edwin Gray, Andrew Gregg, John A. Hanna, Thomas Hartley, Joseph Heister, William H. Hill, David Holmes, Benjamin Huger, George Jackson, James Jones, Aaron Kitchell, Michael Leib, Matthew Lyon, James Linn, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, Abraham Nott, Josiah Parker, John Randolph, John Smilie, John Smith, Richard Stanford, David Stone, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Joseph B. Varnum, and Robert Williams.

So the amendment of the Senate was rejected.

H. OF R.

Limits of Georgia.

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Upon the question to agree with the Committee in their disagreement to that part of the new section proposed by the Senate, which gave the Commissioners power to settle the rights of claimants to parts of the lands about to be ceded by Georgia to the United States,

Messrs. H. LEE, RUTLEDGE, and BAYARD, spoke in favor of the amendment, and against concurring in the report of the Committee, and Messrs. GALLATIN and JONES in opposition.

Mr. SMILIE, after insinuating that he understood some members to be interested in this question, read the rule of the House, which declares, that no member who is particularly interested in any question shall have a right to vote.

Mr. SEWALL said, he wished the true interpretation of this order to be given by the Chair. In his opinion it was not applicable to the question under consideration, as it appeared to be a general one.

After some observations from Mr. NICHOLAS,

Mr. NICHOLSON said, he hoped there would be no more debate until it was known that some member was actually interested.

Mr. SEWALL, in answer to this challenge, said that he was interested, having been a purchaser of these lands; and added that a number of his constituents were equally interested, and would feel much hurt at the rejection of his vote. He again called upon the Chair to decide as to the propriety of applying the rule to him upon this question.

After some other observations as to the point of order, the business before the House was suspended for fifteen minutes, and a resolution was submitted by Mr. SEWALL, by which the House were to declare their sense upon the subject. Whereupon an adjournment was called for and carried—yeas 39, nays 38.

FRIDAY April 25.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, accompanying an estimate for an appropriation of moneys for carrying into effect the act respecting quarantines and health laws; which were read, and ordered to lie on the table.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, accompanying a letter from the Comptroller, transmitting sundry statements, prepared in pursuance of the "Act establishing a Mint, and regulating the coins of the United States;" which was read, and ordered to lie on the table.

Mr. MARSHALL, from the committee to whom was referred the bill sent from the Senate, entitled "An act prescribing the mode of deciding disputed elections of President and Vice President of the United States," made a report; which was read, and ordered to be committed to a Committee of the whole House on Monday next.

The report of the select committee to whom was referred the amendments of the Senate to the bill to provide for the sale of the lands in the Territory Northwest of the Ohio, and above the mouth of Kentucky river, was concurred in.

Mr. S. SMITH brought in a bill to promote the manufacture of sheet copper within the United States, by the incorporation of a company under the name of the Passaic Copper Company; which was committed for Monday.

The amendments of the Senate to the bill, supplementary to the laws now in force, fixing the compensation of the officers of the Senate and House of Representatives, were read and concurred in.

The bill to authorize the issuing of certain patents was agreed to, and ordered to be engrossed for a third reading to-morrow.

The House went into Committee of the Whole on the bill to provide for the disposition of the lands between the Great and Little Miami rivers; and after some time spent therein the Committee rose, and obtained leave to sit again.

Mr. C. GOODRICH, from the committee to whom was referred the amendment of the Senate to the bill to divide the Territory of the United States Northwest of the Ohio into two separate governments, made a report, that the House ought to disagree to the amendment, which proposes striking out the whole bill, and inserting a new one.

The report was concurred in.

The bill directing the payment of a detachment of militia under the command of Major Johnson, in 1794, was also agreed to, and ordered to be engrossed for a third reading to-morrow—as was the bill making further provision for the orphan children of Colonel John Harding and Major Alexander Trueman, deceased.

CONGRESS LIBRARY.

Mr. DENNIS said that by the act passed the present session, further to provide for the removal and accommodation of the Government of the United States, a sum not exceeding \$5,000 was appropriated for the purpose of procuring a Library. In order to carry that provision into execution, he would move the following resolution:

"Resolved, That — be a committee, jointly with such committee as may be appointed on the part of the Senate, for the purpose of making out a catalogue of books, and adopting the best mode of procuring a Library, at the City of Washington; and for adopting a system of rules and regulations relative thereto."

This motion was agreed to, and Messrs. WALN, EVANS, and POWELL, appointed.

LIMITS OF GEORGIA.

The House resumed the consideration of the report of the Committee of the Whole on the amendment of the Senate to the bill supplemental to an act for an amicable settlement of limits with the State of Georgia; and for the establishment of a government in the Mississippi Territory; when

Mr. SPEAKER, having been called on to decide whether the gentleman from Massachusetts (Mr. SEWALL) had a right to vote upon the question before the House, after explaining the rule, and the cases to which it evidently applied, declared that it could not even be a question of order, that the gentleman had an undoubted right to vote.

Mr. SEWALL then said, from motives of delicacy

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The Slave Trade.

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cy, and to avoid that censure, which, influenced by party spirit, he might incur in exercising his legal right (for he never entertained a doubt on the subject) he would decline giving his vote upon the question.

Immediately after Mr. S. had withdrawn from the House, the question was taken on agreeing with the committee in their resolution of non-concurrence to that part of the new section proposed by the Senate, which authorizes the Commissioners to settle individual claims, and carried in the affirmative, yeas 46, nays 34, as follows:

YEAS—Willis Alston, Phaniel Bishop, Robert Brown, Samuel J. Cabell, John Condit, John Dennis, George Dent, Joseph Dickson, Joseph Eggleston, Lucas Elmen-dorf, John Fowler, Albert Gallatin, Edwin Gray, Andrew Gregg, William Barry Grove, John A. Hanna, Joseph Heister, William H. Hill, David Holmes, Benjamin Huger, George Jackson, James Jones, Aaron Kitchell, Michael Leib, Matthew Lyon, James Linn, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Abraham Nott, Robert Page, Josiah Parker, John Randolph, John Smith, John Smilie, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, John Chew Thomas, Richard Thomas, John Thompson, Abram Trigg, John Trigg and Robert Williams.

NAYS—George Baer, Bailey Bartlett, James A. Bayard, John Brown, Samuel W. Dana, John Davenport, Franklin Davenport, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, Robert Goodloe Harper, James H. Inlay, Henry Lee, Silas Lee, Samuel Lyman, John Marshall, Lewis R. Morris, Thomas Pinckney, Leven Powell, John Reed, John Rutledge, jr., James Sheafe, William Shepard, George Thatcher, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

Mr. VARNUM observed, that he thought something ought to be done to bring about a compromise with these claimants, and therefore moved an amendment, in place of the words struck out, viz: that the said Commissioners, on the part of the United States, or any of them, be authorized to inquire into the claims which are or shall be made by the settlers, or any other person or persons, whatever, to any part of the aforesaid lands, which may be relinquished by the State of Georgia, and make report thereon to Congress, as soon as may be.

This motion was agreed to, yeas 49; and the amendment of the Senate, as amended, concurred in.

SATURDAY, April 26.

The following engrossed bills were read and passed:

An act to authorize the issuing certain patents;
An act directing the payment of a detachment of militia under the command of Major Thomas Johnson in the year 1794.

An engrossed bill to make further provision for the orphan children of Col. J. Harding and Major Alexander Trueman, deceased, was read. Mr. D. FOSTER moved that the bill be recommitted to the same Committee of the Whole to whom were

referred the report on the petition of the widow of Colonel Preston, and another on the same subject—his view was to include all in the same bill. Mr. NICHOLAS and Mr. J. C. THOMAS thought the cases dissimilar. The motion was carried, 43 to 37.

Mr. S. SMITH, from the Committee of Commerce, reported a bill supplementary to the act, entitled "An act to establish the compensation of the officers employed in the collection of the duties on imports and tonnage, and for other purposes;" which was read and committed for Monday.

The House went into a Committee on the bill authorizing the allowance of a credit to William Tazewell; which was agreed to, and ordered to be engrossed.

The House also went into a Committee on the bill providing for the disposition of the lands between the Great and Little Miami rivers: which was ordered to be engrossed for its third reading.

SLAVE TRADE.

The House resolved itself into a Committee on the bill from the Senate, in addition to the act, entitled "An act prohibiting the carrying on the slave trade from the United States to any foreign place or country."

Mr. J. BROWN said, when the motion was first laid on the table, he thought it improper to prevent the citizens of the United States enjoying the benefits of a trade enjoyed by all the European nations. He really was in hopes that the good sense of the select committee would have permitted them to have seen the policy of realizing the act in question. Many members of the House, he observed, knew how the former act was passed; they knew that Congress was drilled into it by certain persons who would not take *no* for an answer. It was well known that the Abolition Society, otherwise the Society of Friends, as they were called, were very troublesome until they got that act passed. It was also well known that those people did not do much to support the Government, but that they did as much as they could to stop the measures of the Government, and particularly our defensive system, on which our national security depended.

Mr. NICHOLAS asked whether it was in order to abuse any class of citizens in this manner, and particularly since no motion was before the Committee?

The CHAIRMAN said he conceived the gentleman to be in order, since he supposed he was about to make a motion affecting the principle of the bill.

Mr. BROWN resumed. He was only speaking, agreeably to his information, how this bill came originally into existence. He was certain that this nation, having an act against the slave trade, did not prevent the exportation of a slave from Africa. He believed we might as well, therefore, enjoy that trade as to leave it wholly to others. It was the law of that country to export those whom they held in slavery—who were as much slaves there as those who were slaves in this country—and with as much right. The very idea of mak-

ing a law against this trade, which all other nations enjoyed, and which was allowed to be very profitable, was ill policy. He would further say that it was wrong, when considered in a moral point of view, since, by the operation of the trade, the very people themselves much bettered their condition. It ought to be a matter of national policy, since it would bring in a good revenue to our Treasury. It was not pleasing to him, Mr. B. said, to pay an interest of 8 per cent. for our loan: rather than borrow money, he would wish to be paying off some of our old standing debt, which could be done by increasing our commerce, or rendering it free. He wished it to be free as the wind that blew—from one end of the world to the other. As he observed before, he believed not one more slave would be exported from Africa, while our merchants and our revenue would enjoy the benefit.

Mr. B. said, our distilleries and manufactories were all lying idle for want of an extended commerce. He had been well informed that on those coasts New England rum was much preferred to the best Jamaica spirits, and would fetch a better price. Why then should it not be sent there, and a profitable return be made? Why should a heavy fine and imprisonment be made the penalty for carrying on a trade so advantageous?

But, he observed, if it was thought advisable that the old act should continue, he would wish it could be made to meet the purpose altogether, and prevent the system of slavery entirely, so that equal advantages might be given to all the inhabitants of the Union; without this, it would, as it ever had been, remain a great disadvantage. He therefore moved that the Committee rise, in order to postpone the bill. He believed the House would be better prepared to meet it in a few days.

Mr. NICHOLAS seconded the motion, not but that he was prepared to decide on it, but that there might be opportunity given to express an opinion. He really could not understand the gentleman, when he said that our people being employed in that trade would not add nor diminish the number exported. This was certainly a wrong calculation. These people were enslaved for their masters, or to supply some foreign market. Certainly if the number of purchasers were increased, the number of slaves would be increased. Surely the gentleman would not wish them brought into the United States when he talked of their condition being improved; this was a fact, to be sure, but would it be policy so to do?

But another and an important point was touched upon—that he would wish the law to be made to meet another object, if it was determined to prohibit the trade in this country. As a Southern man, Mr. N. said, he would observe that he was placed in a most unfortunate situation, indeed, in being obliged, in common with other people of those States, to keep men in a state of slavery: but he had the consolation to inform the House, that he believed the people of the Southern States were wiping off the stain entailed upon them by their predecessors, in endeavoring to ameliorate the situation of that race of people as much as possible. This appeared to be an increasing disposition. He

hoped the gentleman would have an opportunity to produce all his arguments on this subject, in his endeavors either to get the law repealed or to strengthen it, agreeably to his wish, in order that he might be satisfied that he would not find an advocate in the House.

Mr. D. FOSTER spoke against the Committee rising.

Several sections of the bill were then gone through with, when the Committee rose, and obtained leave to sit again.

MONDAY, April 28.

An engrossed bill to provide for the sale of certain lands between the Great and Little Miami rivers, was read and passed; also a bill authorizing the allowance of a credit to William Tazewell.

The House went into a Committee on the bill to promote the manufacture of sheet copper in the United States; which was agreed to, and ordered to be engrossed accordingly.

Mr. H. LEE called up the Militia bill, when Mr. BAYARD moved its postponement till the first Monday in December next, which was carried—yeas 50.

Mr. RUTLEDGE proposed a resolution that a committee be appointed to inquire whether any and what alterations are necessary to be made in the act respecting fugitives from justice and persons escaping from their masters. This was negatived—38 to 34.

THE SLAVE TRADE.

Mr. RUTLEDGE moved that the Committee of the Whole, to whom were referred the bill for preventing the carrying on the slave trade, &c., be discharged from the further consideration thereof. He conceived it to be one of the most defective bills that ever was before Congress, because the object intended was in no wise provided for, or utterly impracticable.

Mr. BAYARD was of the same opinion. He had taken some pains to examine the bill, but was obliged to conclude it extremely imperfect. The objects of the former bill, and which was intended to be improved, were, to prevent the citizens of the United States having any right in vessels so employed; and also to prevent the citizens of the United States being employed on board any such vessels. He trusted that a great majority of the members of the House would be in favor of those principles, and effectually promote them. It would indeed be extremely dishonorable, in a country like this, to affirm such a trade, so contrary to all those principles held dear in the United States, and which ought to be promoted. His desire was, that a bill should be constructed upon the true principles of the intent of Congress: so far he thought they might go, but no farther. To be sure, as the gentleman from Rhode Island (Mr. J. BROWN) observed, the Government could derive revenue from the encouragement of this trade, but he thought a more dishonorable item of revenue could not be established.

The Committee was discharged.

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Military Academy, &c.

H. OF R.

Mr. BAYARD then moved that the bill should be referred to a select committee.

Mr. RUTLEDGE hoped this would not be agreed to; he was not disposed at this late day of the session to take up any new business that was not of urgency. He thought it was perfectly unnecessary to make a new act upon the subject; he believed the former act did everything that was necessary or practicable to be done. What more could be wanted than that persons engaged in this traffic should forfeit their ships and pay a fine, besides, in many instances, imprisonment of the person offending? Surely that was all the occasion required. The different States which had heretofore imported those people into the United States had established the policy not to import any more; but in addition to this willing restriction, the Federal Government thought proper to prevent the trade being carried on, by our ships, to those countries which did suffer their importation. This was going very far indeed, but so far it was thought proper to go, to furnish a peace offering to those philanthropists whose urgency was great to accomplish the general destruction of the trade. However, the activity of the people of the four New England States first engaged them in this profitable traffic; their produce would bring a good price on the African coast, and why they might not enjoy the profit of it as well as the English he could not conceive. He believed it to be impossible effectually to prevent it. Some gentlemen, indeed, had talked of authorizing our cruisers to seize vessels of this kind, but, suppose they were confiscated, what was to be done with their cargoes? They could not be brought into the United States. Where could they be carried? It was not consistent with the policy of the West India islands to suffer them to land there, since it was their practice to keep these people in bondage, and they did not want, nor could they suffer free men to inundate those colonies. He knew of no place where they could be landed but St. Domingo, and as these people would not have been of those who had procured the freedom of slaves there—were not of those who had spread devastation and murder throughout that island, it was probable they would spurn them from their shores. What then was to be done with them? Surely no gentleman would wish them to be drowned, and it would be as absurd to think of sending them back to Sierra Leone! These difficulties he thought insuperable.

Mr. WALN hoped the bill would be committed, and that the provisions of it would be made effectual to its object. As for the people of Pennsylvania, he believed he could say they were unanimously in favor of the trade being put an end to most completely; which was in no wise done by the law now in force, nor by the bill now proposed. He said it was well known, that great grievances did exist for want of the due execution of the law, and much greater than were generally known, and hence it was that no more was heard of it from the people on this subject. He had been well informed that great evasions had taken place, and that this unlawful trade was becoming more and more in use. In the last year he believed

that near forty vessels entered the West Indies with this illicit species of commerce. In some parts of the United States, he had been well informed, it was become so popular, that if a vessel was seized and sold, it was impossible to get any person to bid for her, and therefore the owner was enabled to repurchase her at a very low price indeed. It would be much better to repeal the old law, and open the trade, than to suffer the law to continue when nearly a nullity. But this he believed was not the disposition of the House; he believed the House could carry the principle into effect, and he was sure that a very great majority of the American people would wish them to do it.

The motion for recommitment was carried by a very large majority, and three members appointed.

IMPRISONMENT FOR DEBT.

Mr. STONE made a report from the committee to whom was referred the petition of Lawrence Erb and others, imprisoned at the suit of the United States for disabilities in the payment of moneys received by them. The committee saw no necessity of a special interference in these cases, and, in order to try the principle, submitted the following resolution:

“Resolved, That provision ought to be made by law for the personal discharge from prison of the insolvent debtors of the United States.”

It was agreed to, and the committee appointed to carry it into effect.

MILITARY ACADEMY, &c.

Mr. EGLESTON said, since he found the House so much disposed to prepare for the close of the session by postponing unnecessary business, he would move that the bill for establishing a Military Academy, and for the better organization of the corps of Artillerists and Engineers, be postponed till the first Monday in December next.

After some observations against the motion, by Messrs. PARKER, CHAMPLIN, and H. LEE, and in favor of it by Messrs. EGLESTON and SHEPARD, it was carried—yeas 64, nays 23, as follows:

YEAS—Willis Alston, George Baer, Theodorus Bailey, Bailey Bartlett, James A. Bayard, Phaniel Bishop, Jonathan Brace, John Brown, Robert Brown, Samuel J. Cabell, Matthew Clay, William C. C. Claiborne, John Condit, William Cooper, John Davenport, Thomas T. Davis, George Dent, Joseph Dickson, Joseph Eggleston, Lucas Elmendorf, Dwight Foster, John Fowler, Jonathan Freeman, Albert Gallatin, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Edwin Gray, Andrew Gregg, Roger Griswold, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Thomas Hartley, Joseph Heister, David Holmes, James Jones, Aaron Kitchell, Samuel Lyman, Matthew Lyon, James Linn, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Abraham Nott, John Randolph, John Reed, James Sheafe, William Shepard, John Smilie, John Smith, Samuel Smith, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, Richard Thomas, John Thompson, John Trigg, Joseph B. Varnum, Robert Williams, Lemuel Williams, and Henry Woods.

NAYS—C. G. Champlin, S. W. Dana, Franklin Davenport, John Dennis, William Edmond, Thomas

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Elections of President, &c.

MAY, 1800.

Evans, Abiel Foster, William H. Hill, Benjamin Huger, James H. Imlay, Henry Lee, John Marshall, Lewis R. Morris, Robert Page, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven Powell, John Rutledge, jun., George Thatcher, John Chew Thomas, Peleg Wadsworth, and Robert Wain.

DIVISION OF NORTHWESTERN TERRITORY.

A message was received from the Senate informing the House that they insisted on the amendments to the bill for the division of the Northwestern Territory, and for establishing limits to the State of Georgia; and that they asked a conference on the bill providing for the sale of the lands above the mouth of Kentucky river, having appointed managers on their part. Managers were appointed on the part of the House.

It was resolved that a conference be requested on the bill for dividing the Northwestern Territory.

TREATY WITH GREAT BRITAIN.

The House went into a Committee on the bill for the execution of the 27th article of the Treaty with Great Britain.

A motion of Mr. NICHOLAS was under consideration, that no person whose case was cognizable in any of our courts should be delivered up. This caused a lengthy debate; it was advocated by Messrs. S. SMITH, NICHOLSON, and GALLATIN, and opposed by Messrs. BAYARD, DANA, and DENNIS. It was negatived 45 to 42. After which the Committee rose, obtained leave to sit again, and the House adjourned.

TUESDAY, April 29.

An engrossed bill to promote the manufacture of sheet copper within the United States, by incorporating a company for carrying on the same, was read the third time, and passed.

The House resolved itself into Committee on the bill to provide for carrying into effect the 27th article of the British Treaty. An amendment of Mr. NICHOLAS was under consideration, to which Mr. MARSHALL proposed some amendments; which being somewhat opposed, the Committee rose in order to have the amendments printed, and obtained leave to sit again.

A message was received from the Senate requesting concurrence to a bill which they had passed, entitled An act supplementary to the act to suspend part of an act entitled an act to augment the Army of the United States, and for other purposes.

DISPUTED ELECTIONS.

The House resolved itself into a Committee on the bill prescribing the mode of deciding disputed elections of President and Vice President of the United States.

The bill, as amended by the select committee, provided for the appointment of a joint committee, with certain defined, but no decisive, powers.

Mr. NICHOLAS, saw no use for this committee, whose only business was to examine testimony, which, being next to nothing for them to do, would enable them the better to design mischief,

if they were so inclined; and the great inconvenience that would attend their being empowered to send for testimony, even from the most distant part of the United States, made him think that all the provisions with which this committee are connected ought to be stricken out; he therefore moved to strike out the first section of the bill.

This was negatived—43 to 39.

Mr. GALLATIN afterwards moved to amend a section which provided the means of ascertaining the votes. Mr. MARSHALL answered. The Committee rose without a decision.

WEDNESDAY, April 30.

The bill sent from the Senate, entitled "An act supplementary to the act to suspend part of an act entitled 'An act to augment the Army of the United States, and for other purposes,'" was read twice, and committed to a Committee of the Whole to-morrow.

Mr. HARPER, from the Committee of Ways and Means, made a report on the subject of further revenue; which was read, and ordered to be committed to a Committee of the Whole on Monday next.

A message was received from the Senate informing the House that they had passed an act to amend an act entitled an act to establish the Judicial Courts of the United States.

DISPUTED ELECTIONS OF PRESIDENT, &c.

The House again resolved itself into a Committee on the bill prescribing the mode of deciding disputed elections of President and Vice President of the United States.

A motion of Mr. GALLATIN was under consideration, to insert, instead of the principle that in cases of doubt the Houses should divide to their respective chambers to consider the qualification or disqualification of a vote or votes, from their joint meeting, if such question should arise at counting the votes, the following words: "and the question of the exception shall immediately, and without debate, be taken by yeas and nays, and decided by a majority of the members of both Houses then present."

This motion called forth a long debate, and on the division was negatived, 46 to 44.

The Committee having gone through the bill, rose and reported.

THURSDAY, May 1.

The bill from the Senate to amend the act entitled "An act to establish the Judicial Courts of the United States," was twice read and committed.

Mr. HARPER, from the Committee of Ways and Means, made a report on the subject of further revenue; which was read, and ordered to be committed to a Committee of the whole House on Monday next.

Mr. SEWALL, from the committee to whom was referred, on the thirteenth of January last, the petition of Cato West and others, made a further

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report; which was read and considered: Whereupon,

Resolved, That the Governor of the Mississippi Territory be authorized by law, for the term of one year, to permit by his special license, to be granted after examination of each case in which it shall be requested, any slave or slaves, bona fide the property of a citizen of the United States, or owned by any person resident within the Mississippi Territory, at the period when the Government of the United States was established over the same, to be brought by such proprietor into the said Territory.

Ordered, That a bill or bills be brought in, pursuant to the said resolution; and that Mr. SEWALL, Mr. CHAUNCEY GOODRICH, Mr. WALN, Mr. EVANS, and Mr. HILL, do prepare and bring in the same.

The House resolved itself into a Committee of the whole House on the report of the committee to whom was referred, on the seventh of March last, the petition of William Hill and others, and, after some time spent therein, the Committee rose and reported two resolutions thereupon; which were severally twice read, and agreed to by the House, as follows:

Resolved, That the sum of — dollars ought to be appropriated by law to defray the expenses of such treaty or treaties as the President of the United States may deem it expedient to hold with any nation or nations of Indians southwest of the river Ohio.

Resolved, That provision ought to be made by law, authorizing and enabling all persons who, under the laws of North Carolina, and in conformity to the regulations and provisions thereof, have entered, surveyed, located, or obtained, grants of any of the lands ceded by the said State to the United States, in such manner as would have vested a good title under the said State of North Carolina, if such cession had not been made, to enter upon, occupy, and possess, the same, or to remove thereto their location from such lands, the titles whereto shall not be extinguished, whenever, and as soon as the Indian title or claim to a sufficient portion of the said land shall be extinguished, under the authority of the United States; and to possess and enjoy the same in as full and ample manner as if the same had been derived from, or under, the United States.

Ordered, That a bill or bills be brought in, pursuant to the first resolution; and that Mr. PINCKNEY, Mr. CHAUNCEY GOODRICH, Mr. HENDERSON, Mr. NICHOLAS, and Mr. THATCHER, do prepare and bring in the same.

On the motion of Mr. CLAIBORNE, the report of the select committee respecting the continuation of the acts for establishing trading houses with the Indians, was taken up and agreed to, and the committee directed to bring in a bill.

A message was received from the Senate, informing the House that they had agreed to a bill to authorize the sale and conveyance of lands by the Marshals of the United States, with an amendment. The House concurred.

Also, requesting a conference on the bill respect-

ing the Mississippi Territory. Three managers were appointed on the part of the House.

Mr. HARPER, instructed by the committee to whom were referred so much of the President's Speech as related to the revision and amendment of the judiciary system, reported a bill to provide for the more convenient and effectual administration of justice in the Circuit Courts of the United States. It was ordered to be printed.

The House resolved itself into Committee on the bill to establish the compensation of the officers employed in the collection of the duties on imports and tonnage; and after some time spent therein, the Committee rose and obtained leave to sit again.

DISPUTED ELECTIONS OF PRESIDENT, &c.

The House proceeded to consider the amendment reported, yesterday, from the Committee of the Whole House to whom was committed the report of the committee to whom was referred the bill sent from the Senate, entitled "An act prescribing the mode of deciding disputed elections of President and Vice President of the United States;" and the same being read,

A motion was made and seconded to amend the said amendment, by striking out, in the first section thereof, the words following:

"That, on the — next following the day when a President and Vice President shall have been voted for by Electors, it shall be the duty of the Senate and House of Representatives of the United States to choose, by ballot, in each House, four members thereof: and the persons thus chosen shall form a Joint Committee, and shall have power to examine into all disputes relative to the election of President and Vice President of the United States, other than such as may relate to the number of votes by which Electors may have been appointed."

And the question being taken, thereupon it was decided in the negative—yeas 41, nays 47, as follows:

YEAS—Willis Alston, Theodorus Bailey, Phaniel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, Thomas T. Davis, John Dawson, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Galatin, Edwin Gray, Andrew Gregg, John A. Hanna, David Holmes, George Jackson, James Jones, Aaron Kitchell, Michael Leib, Matthew Lyon, James Linn, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, John Randolph, John Smilie, John Smith, Richard Stanford, David Stone, Thomas Sumter, John Thompson, Abram Trigg, John Trigg, Joseph B. Varnum, and Robert Williams,

NAYS—George Baer, Bailey Bartlett, James A. Bayard, Jonathan Brace, John Brown, Christopher G. Champlin, William Cooper, Samuel W. Dana, Franklin Davenport, John Dennis, George Dent, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, Robert Goodloe Harper, William H. Hill, Benjamin Huger, Henry Lee, Silas Lee, Samuel Lyman, John Marshall, Lewis R. Morris, Abraham Nott, Robert Page, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven

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Powell, John Reed, John Rutledge, jr., Samuel Sewall, James Sheafe, William Shepard, George Thatcher, John C. Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

A motion was then made and seconded to amend the said amendment, by striking out of the eighth section thereof, the following:

"And sign his name thereto, and if it be founded on any circumstance appearing in the report of the Joint Committee, and the exception be seconded by one member from the Senate, and one from the House of Representatives, each of whom shall sign the said exception, as having seconded the same, then each House shall immediately retire, without question or debate, to its own apartment, and shall take the question on the exception, without debate, by ayes and noes. So soon as the question shall be taken in either House, a message shall be sent to the other, informing them that the House sending the message is prepared to resume the count; and when such message shall have been received by both Houses, they shall again assemble in the same apartment as before, and the count shall be resumed. And if the two Houses have concurred in rejecting the vote or votes objected to, such vote or votes shall not be counted; but, unless both Houses concur, such vote or votes shall be counted. If the objection taken as aforementioned, shall arise on the face of the papers opened by the President of the Senate, in the presence of both Houses, and shall not have been noticed in the report of the Joint Committee, such objection may be referred to the Joint Committee, to be examined and reported on by them, in the same manner, and on the same principles, as their first report was made; but, if both Houses do not concur in referring the same to the committee, then such objection shall be decided on in the like manner as if it had been founded on any circumstance appearing in the report of the committee."

And insert, in lieu thereof, the following:

"And the question on the exception shall immediately, and without debate, be taken by ayes and noes, and decided by a majority of the members of both Houses then present."

And, the question being taken thereupon, it was decided in the negative—yeas 43, nays 46, as follows:

YEAS—Willis Alston, Theodorus Bailey, Phanuel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Gallatin, Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, George Jackson, James Jones, Aaron Kitchell, Michael Leib, Matthew Lyon, James Linn, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, John Randolph, John Smilie, John Smith, Richard Stanford, David Stone, Thomas Sumter, John Thompson, Abram Trigg, John Trigg Joseph B. Varnum, and Robert Williams.

NAYS—George Baer, Bailey Bartlett, James A. Bayard, Jonathan Brace, John Brown, Christopher G. Champlin, William Cooper, Samuel W. Dana, Franklin Davenport, John Dennis, Joseph Dickinson, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, Robert Goodloe Har-

per, William H. Hill, Benjamin Huger, Henry Lee, Silas Lee, Samuel Lyman, John Marshall, Lewis R. Morris, Abraham Nott, Robert Page, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, John Rutledge, jr., Samuel Sewall, James Sheafe, William Shepard, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

Another motion was then made and seconded to amend the said amendment; and the question being taken thereupon it was resolved in the affirmative.

Ordered, That the said amendment, as amended, be recommitted to a Committee of the whole House immediately.

The House accordingly, resolved itself into the said committee; and, after some time spent therein, Mr. SPEAKER resumed the Chair, and Mr. RUTLEDGE reported that the committee had had the said amendment under consideration, and made one amendment thereto; which was twice read, and agreed to by the House.

And then the main question being taken, that the House do agree to the said amendment as amended, it was resolved in the affirmative.

Ordered, That the said bill, with the amendment be read the third time to-morrow.

A message from the Senate informed the House that the Senate request a conference on the subject-matter of their amendments, disagreed to by this House, to the bill, entitled "An act supplementary to the act entitled 'An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory,'" and have appointed members at the same on their part. The Senate have passed the bill, entitled "An act to continue in force an act laying additional duty on salt imported into the United States, and for other purposes." The Senate have passed the bill, entitled "An act to authorize the sale and conveyance of lands, in certain cases, by the Marshals of the United States, and to confirm former sales," with an amendment; to which they desire the concurrence of this House.

The House proceeded to consider the said message: Whereupon,

Resolved, That this House doth agree to the conference proposed by the Senate on the subject-matter of the first mentioned bill; and that Mr. PAGE, Mr. NOTT, and Mr. VARNUM, be appointed managers at the same on the part of this House.

Resolved, That this House doth agree to the amendment proposed by the Senate to the last mentioned bill.

Ordered, That the Clerk of this House do acquaint the Senate therewith.

On a motion made and seconded that the House do come to the following resolution:

"*Resolved*, That the Clerk of this House be directed to deliver to the members, such volumes of the Journals of the old Congress as may now be in his possession, for distribution"

Ordered, That the said motion be referred to Mr. NEW, Mr. NICHOLAS, and Mr. VARNUM.

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Northwestern Territory.

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FRIDAY, May 2.

Mr. D. FOSTER, from the committee to whom was referred the bill from the Senate in addition to the act, entitled an act to prohibit the carrying on the slave trade from the United States to any foreign place or country, made a report, recommending the adoption of sundry amendments to said bill. The report was read a second time, and committed for to-morrow.

Mr. RUTLEDGE moved that the Committee of the Whole, to whom was referred the bill supplementary to the act to fix the compensation of the officers employed in the collection of duties on imports and tonnage, be discharged from the further consideration thereof.

This motion, after considerable debate, was negatived—yeas 41, nays 44.

Mr. GRISWOLD, from the Committee of Revisal and Unfinished Business, made a further report, recommending the adoption of a resolution making additional allowance to the clerks of the Department of State, Navy, &c., which was read a first and second time; and, upon the question will the House adopt the same, it passed in the negative—yeas 32, nays 36.

DISPUTED ELECTIONS OF PRESIDENT, &c.

The bill sent from the Senate, entitled "An act prescribing the mode of deciding disputed elections of President and Vice President of the United States," together with the amendment agreed to yesterday, was read a third time; and on the question that the same do pass, it was resolved in the affirmative—yeas 52, nays 37, as follows:

YEAS—George Baer, Bailey Bartlett, James A. Bayard, Jonathan Brace, John Brown, Christopher G. Champlin, Samuel W. Dana, John Davenport, Franklin Davenport, Thomas T. Davis, John Dennis, George Dent, Joseph Dickson, William Edmond, Thos. Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, William Barry Grove, Robt. Goodloe Harper, William H. Hill, Benjamin Huger, James H. Inlay, Henry Lee, Silas Lee, Samuel Lyman, John Marshall, Lewis R. Morris, Abraham Nott, Robert Page, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, John Rutledge, jr., Samuel Sewall, James Sheafe, William Shepard, Samuel Smith, Geo. Thatcher, John Chew Thomas, Richard Thomas, Joseph B. Varnum, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

NAYS—Willis Alston, Theodorus Bailey, Phanuel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, John Dawson, Joseph Eggleston, Lucas Elmendorf, Albert Gallatin, Edwin Gray, Andrew Gregg, John A. Hanna, Thomas Hartley, Joseph Heister, David Holmes, George Jackson, James Jones, Aaron Kitchell, Michael Leib, James Linn, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, John Randolph, John Smilie, John Smith, Richard Stanford, David Stone, John Thompson, Abram Trigg, John Trigg, and Robert Williams.

COMPENSATION OF COLLECTORS.

The House went into Committee of the Whole on the bill supplementary to the act to fix the compensation of the officers employed in the col-

lection of duties on imports and tonnage; and after making some other amendments, reducing the salaries of sundry collectors, the Committee rose, and the House proceeded to the consideration of the report; when

Mr. WALN moved to strike out from the amendment for reducing the Collectors of Boston, Baltimore, Philadelphia, and Charleston, the word "Philadelphia," which was negatived—yeas 30.

Mr. PARKER moved to amend the bill by striking out the reduction proposed with respect to the Collector of Norfolk. Negatived—yeas 25.

Mr. CHAMPLIN moved a reduction of the percentage allowed the Collector of the port of New-London, to one and a half per quarter per cent. Negatived—yeas 12.

Mr. SEWALL wished to make the allowance of the Collector of Boston 7-16ths of 1 per cent., instead of 3-8ths—and made a motion to that effect. Negatived.

The further consideration of the report was postponed till to-morrow.

SATURDAY, May 3.

Mr. PINCKNEY, from a select committee, reported a bill to appropriate a certain sum of money to defray the expense of holding a treaty or treaties with the Indians.

Mr. CLAIBORNE reported a bill to revive and continue in force an act entitled an act for establishing trading-houses with the Indians.

A message was received from the Senate requesting concurrence to a bill passed in that House, supplementary to the act entitled an act to establish the Treasury Department.

These three acts were severally twice read, and committed to Committees of the whole House.

An amendment was also proposed to the bill for the support of Government for the year 1800; to which the House concurred.

Mr. NICHOLAS, from the committee to whom was referred, on the first instant, a motion relative to the distribution of the Journals of the old Congress, made a report; which was read, and ordered to lie on the table.

The House proceeded to the consideration of the bill for fixing the compensation to the Collectors of the Revenue, upon which some further debate occurred, which was principally confined to the efforts of several gentlemen to prevent any reduction of the per centage heretofore allowed to those officers.

The bill at last was passed through, and ordered to be engrossed for a third reading—yeas 44.

DIVISION OF NORTHWESTERN TERRITORY.

Mr. C. GOODRICH made a report from the managers on the part of this House appointed to confer with the Senate on the bill to divide the Northwestern Territory; the report was, that it would be expedient for the House to recede from their amendments and to agree to a farther amendment that was proposed.

Mr. JACKSON moved that the further consideration of this bill might be postponed till the first

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Monday in December next. He stated this motion to be grounded on a belief that many of the people of that Territory had no knowledge or desire that this division should take place; he had been informed by a respectable gentleman who resided there, that the people were not generally informed that such a measure was in contemplation. Mr. J. said he had doubts whether it would be for their interest or not, and doubting, he wished to act with caution and information, since it was an important thing to them.

Mr. HARRISON hoped the motion would not take place; the information the gentleman had stated came from a person who was interested, residing near Cincinnati, which, although now the seat of Government, would not continue so in case of a division. He knew the information to be inaccurate; he believed nine-tenths of the people were in favor of it, among whom were a great number of the Legislature. He confessed that the Senate had amended this bill in a manner very injurious to the general interests of the people there, but knowing as he did the great importance of the bill, and the general wish of the people, expressed to the House by petitions, he would rather submit to almost anything than postpone the subject till another session. He was sorry the gentleman from Virginia, or any other gentleman, should suppose him to be so void of a wish or endeavor to promote the interests of his constituents as to propose a measure that was not generally approved of; he knew it to be so, or, Mr. H. said, he should not have encouraged it. Indeed every gentleman must know that his interests were interwoven with those of his constituents.

Mr. GOODRICH mentioned the present great inconvenience in the due administration of justice in that extensive Government, and the great inconvenience generally in all the matters where business with the seat of Government was necessary.

Mr. RUTLEDGE also spoke against its postponement; and, on the question, it was negatived without a division.

The House then receded from its amendment and agreed to the one proposed.

SLAVE TRADE.

The House went into Committee on the bill to prohibit carrying on the slave trade to any foreign country. The Committee rose and reported the bill. On the question when it should be read a third time, it was carried for to-day. On the question for its passing, a long and warm debate ensued.

Several attempts were made to postpone its passing, but to no effect. At length the question was taken—yeas 67, nays 5, as follows:

YEAS—Willis Alston, George Baer, Theodorus Bailey, Bailey Bartlett, James A. Bayard, Phaniel Bishop, Jonathan Brace, Robert Brown, Samuel J. Cabell, Matthew Clay, William C. C. Claiborne, John Condit, William Cooper, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, William Edmond, Joseph Eggleston, Thomas Evans, Abiel Foster, D. Foster, Albert Gallatin, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Edwin Gray, Andrew Gregg,

Roger Griswold, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Thomas Hartley, Joseph Heister, William H. Hill, David Holmes, James H. Imlay, Aaron Kitchell, Silas Lee, Michael Leib, Samuel Lyman, Nathaniel Macon, Lewis R. Morris, Peter Muhlenberg, John Nicholas, Abraham Nott, Robert Page, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, Samuel Sewall, William Shepard, John Smilie, John Smith, David Stone, Thomas Sumter, George Thatcher, John Chew Thomas, John Thompson, Abram Trigg, John Trigg, Joseph B. Varnum, Peleg Wadsworth, Robert Wain, and Robert Williams.

NAYS—John Brown, George Dent, Joseph Dickson, Benjamin Huger, and John Rutledge, jr.

And the House adjourned.

MONDAY, May 5.

Mr. SEWALL brought in a bill to permit, in certain cases, the bringing slaves into the Mississippi Territory; and Mr. STONE, a bill making further provision for the relief of persons imprisoned for debts due the United States; which were respectively read and committed for to-morrow.

Mr. HARPER, from the Committee of Ways and Means, reported the two following bills, which were read a first and second time, and committed to a Committee of the Whole, viz: a bill to authorize certain expenditures, and to make certain additional appropriations for the year 1800; and a bill to make provisions relative to rations for Indians, and for their visits to the seat of Government.

The bill entitled "An act supplementary to an act entitled 'An act to establish the compensation of the officers employed in the collection of the duties on imports and tonnage, and for other purposes,'" was read a third time; and the question being put, Shall the bill pass?

Mr. CHAMPLIN moved that the bill be recommended for the purpose of reducing the per centage allowed the Collectors of New London and Wilmington, (Delaware,) which was negatived.

The bill was then passed.

The bill in addition to the act granting lands to the inhabitants and settlers of Vincennes, in the Illinois country, in the Territory of the United States Northwest of the Ohio, and for confirming them in their possessions, was agreed to in Committee of the Whole, and ordered to be engrossed for a third reading to-morrow.

A message was received from the Senate informing the House that they receded from their amendment, disagreed to by this House, to the bill to divide the Territory of the United States Northwest of the river Ohio.

The bill to appropriate a certain sum of money to defray the expense of holding a treaty or treaties with the Indians, was taken up in Committee of the Whole, agreed to without debate, and the bill ordered to be read a third time to-morrow.

The bill to provide for the means of intercourse between the United States and foreign nations was taken up in Committee of the Whole, when Mr. NICHOLAS moved to strike out the first section, which made the appropriation for the pur-

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Intercourse with France.

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poses contemplated in the remainder of the bill permanent; which, after some debate, was carried—yeas 37, nays 34. The bill was then further amended, the Committee rose, and it was ordered to be read a third time to-morrow.

Mr. GALLATIN, on behalf of the managers appointed to confer with managers on the part of the Senate of their amendments, disagreed to by this House, to the bill to amend the act entitled an act to provide for the sale of the lands of the United States in the Territory Northwest of the Ohio, and above the mouth of Kentucky river, made a report, which was read and concurred in. A message from the Senate informed the House that they also concurred in said report.

Mr. NICHOLAS, from the committee to whom was referred so much of the President's Speech, at the opening of the present session, as relates to the defence of the United States, made report, recommending the adoption of a resolution for appropriating the sum of \$100,000 for the support and erection of fortifications; which was ordered to lie on the table.

SURVEYORS OF THE REVENUE.

The bill to enlarge the powers of Surveyors of the Revenue, was taken up, in Committee of the Whole, when Mr. ELMENDORF moved to add a new section to the bill, giving the surveyors power to alter the assessment rates, where patented lands have been returned by two or three officers.

Mr. HARPER opposed the motion, on the ground that it gave too unlimited power to an individual, and which ought alone to be vested in the commissioners.

Mr. PLATT also opposed it; and Mr. ELMENDORF spoke in reply—when the question was taken and negatived.

The Committee then rose, and the bill was ordered to be read a third time to-morrow.

INTERCOURSE WITH FRANCE.

Mr. PARKER, after noticing the change of conduct in the French Government, and their disposition to liberate American property, said he wished provision to be made for such of our citizens in France whose vessels have not been condemned, and whose commanders, acting without information or instruction, have conceived themselves authorized to return with cargoes to this country, not having knowledge of the act recently passed, by which both vessel and cargo are forfeited; and therefore moved the following resolution:

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire whether any, and what, further amendments are necessary to the act further to suspend the commercial intercourse between the United States and France, and the dependencies thereof, and report their opinion thereon by bill or otherwise."

Mr. P. wished this resolution to be immediately acted upon. One vessel had arrived at Norfolk under the circumstances mentioned, and it was probable there would be many more in a few days.

Mr. NICHOLAS wished the resolution to lie on the table. He was unwilling to act in this partial

manner, as it would open a door to fraud. If a proposition was made to repeal the whole law, it would meet with his hearty approbation.

The resolution was ordered to lie on the table.

TUESDAY, May 6.

The House proceeded to consider the report, made the third instant, from the committee to whom was referred a motion relative to the distribution of the Journals of the old Congress: Whereupon,

Resolved, That the Clerk of this House be directed to distribute among the members such volumes of the Journals of the former Congress as have been received by him under a resolution of the last session, or were before in his possession, and the volumes necessary to complete the sets as they may come to his hands.

The following bills were read a third time and passed:

An act, in addition to an act granting lands to the inhabitants and settlers of Vincennes, in the Illinois country, in the Territory of Ohio, and for confirming them in their possessions;

An act to enlarge the powers of Surveyors of the Revenue;

An act to appropriate a certain sum of money to defray the expenses of holding a treaty or treaties with the Indians;

An act providing the means of intercourse between the United States and foreign nations—the title of which was altered to read, "An act to ascertain the compensation of public Ministers."

INTERCOURSE WITH FRANCE.

Mr. PARKER called up the resolution which he laid on the table yesterday, instructing the Committee of Commerce and Manufactures to inquire whether any, and what, further amendments are necessary to the non-intercourse law; which having been taken into consideration, Mr. P. again contended for the propriety of its adoption.

Mr. MACON moved to amend the resolution by instructing the committee to inquire into the expediency of bringing in a bill to repeal the law altogether; which was agreed to by Mr. PARKER, and incorporated in his resolutions, as follows:

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire whether it be expedient to repeal or *amend* the act further to suspend the commercial intercourse between the United States and France, and the dependencies thereof, and report their opinion thereon by bill or otherwise."

Mr. NICHOLAS moved to amend the resolution by striking out the word in *italic*, in the third line.

A long debate took place on this motion, in which it was frequently observed that the change of conduct on the part of the French Government, which was manifest, ought to produce an equal change on our part; but that we should not touch our system of defence, without connecting with it another; that the power for ceasing hostilities, which was lodged with the Executive, would no doubt be justly exercised, and whenever circumstances would warrant the measure—which no doubt

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would happen upon the receipt of the first despatches from our Ministers at Paris.

The motion to strike out was negatived—yeas 23.

Mr. GALLATIN then opposed the resolution, on the ground that it would be highly improper to take any measure, at the present time, which would change our defensive system. He had no wish even to see the bill amended. Persons who may have suffered could obtain relief by petitioning Congress, who no doubt would grant it, wherever there was no fraud or collusion.

The question on the original resolution was put and negatived—yeas 40, nays 43.

SENATE BILLS.

A message was received from the Senate informing the House that the Senate have passed the two following bills, viz:

"An act supplementary to the act establishing the Mint, and regulating the coins of the United States;" to which they request the concurrence of this House.

Also, the following bill, with amendments: "An act to establish the district of Kennebunk, and to annex Lyme to New London; to alter the district of Bermuda Hundred and City Point, and therein to amend the act entitled 'An act to regulate the collection of duties on imports and tonnage.'"

The amendments to this bill were read and concurred in.

The bill relative to the Mint was read a first and second time, and committed to a Committee of the whole House.

ADDITIONAL REVENUE.

The House resolved itself into a Committee of the Whole on the further report of the Committee of Ways and Means, on the subject of the revenue; when the first resolution, laying an additional duty of twenty per centum on wines, after being amended, on motion of Mr. GRISWOLD, to read as follows, was adopted:

"Resolved, That it is expedient to lay an additional duty of twenty per centum on the amount of the present duty upon wines imported into the United States, and to vary the scale of duties in such manner as to comport with the plan of the Secretary of the Treasury."

The second resolution was agreed to without debate as follows:

"Resolved, That it is expedient to lay an additional duty of two and-a-half per centum ad valorem on such goods, wares, and merchandise, imported into the United States, as are now subject to a duty of ten per centum ad valorem."

The third resolution was opposed by Messrs. HARPER and S. SMITH, and supported by Mr. GRISWOLD; after which the Committee rose, and obtained leave to sit again.

WEDNESDAY, May 7.

Mr. DAVIS, from the select committee to whom was committed the bill from the Senate for the relief of Ithamer Canfield, made a report, that said bill ought to pass. The bill was then ordered to be read a third time to-morrow.

A message from the Senate informed the House, that they have concurred in the amendments of this House to the bill relative to the slave trade with several amendments to which they desire the concurrence of the House; also that the Senate insist on some of their amendments disagreed to by this House, to the bill supplementary to an act for an amicable settlement of limits within the State of Georgia, and for establishing a government in the Mississippi Territory.

ADDITIONAL ARMY.

Mr. HARPER said, that by the terms of enlistment of the additional army, they were engaged to serve for three years, or until an amicable adjustment of the differences existing between the United States and France; from which circumstance, the President was precluded, even if he knew the preliminaries of peace to be adjusted, from disbanding it until a treaty should be actually concluded and ratified by the two Governments—whereby the troops would be kept for perhaps six months in service unnecessarily. The Navy and other parts of our defensive system, were upon a different footing. He wished the Army to be placed on a similar one, and therefore moved the following resolution:

"Resolved, That it is expedient to authorize the President of the United States to discharge the additional army thereof, as soon as the state of things between the United States and the French Republic will warrant the measure."

The resolution was agreed to, and referred to the Committee of the whole House to whom was committed the bill from the Senate to suspend part of the act entitled "An act to augment the Army of the United States."

ADDITIONAL REVENUE.

The House again resolved itself into a Committee of the Whole on the further report of the Committee of Ways and Means on the subject of revenue; and the tax on drawbacks being under consideration, Mr. GRISWOLD and Mr. HARPER again spoke for and against the motion. Mr. NICHOLAS, Mr. HUGER, and Mr. RANDOLPH, also spoke against the motion; after which the question was taken and negatived, only 23 votes being in favor of it.

The third resolution, to lay an additional duty of one half per cent. per pound on brown sugar and coffee imported into the United States, was opposed by Mr. GRISWOLD, who doubted much the propriety of laying an additional duty on coffee, and therefore moved to strike out that article. The motion was opposed by Mr. HARPER, and advocated by Mr. SEWALL, who was of opinion that this article was frequently smuggled, and was apprehensive it would be more so, if an additional duty were laid, and therefore would injure the revenue.

The motion was carried—yeas 38, nays 21.

The question on the resolution as amended was, after some debate, put and carried—yeas 45, nays 28.

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The fourth resolution reported, to retain two-and-a-half per centum on all drawbacks allowed for goods re-exported from the United States, in addition to the sums heretofore directed to be retained by law, and also on the whole of the additional duty on goods imported in foreign ships or vessels, was agreed to without debate. The Committee then rose, and, upon the question, Will the House concur with the Committee in their agreement to the resolution laying an additional duty on sugar? the yeas and nays were called for, and taken, as follows:

YEAS—Willis Alston, Theodorus Bailey, Bailey Bartlett, James A. Bayard, Jonathan Brace, John Brown, Christopher G. Champlin, William C. C. Claiborne, William Cooper, Samuel W. Dana, John Davenport, Franklin Davenport, Thomas T. Davis, John Dennis, George Dent, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Edwin Gray, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Benjamin Huger, James H. Imlay, Aaron Kitchell, John Wilkes Kittera, Samuel Lyman, Matthew Lyon, Lewis R. Morris, Abraham Nott, Robert Page, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, John Rutledge, jr., Samuel Sewall, James Sheafe, William Shepard, John Smith, Samuel Smith, David Stone, George Thatcher, John Chew Thomas, Peleg Wadsworth, Robert Waln, Robert Williams, Lemuel Williams, and Henry Woods.—54.

NAYS—Phanuel Bishop, Samuel J. Cabell, Gabriel Christie, Matthew Clay, John Condit, John Dawson, Joseph Dickson, Joseph Eggleston, Lucas Elmendorf, Albert Gallatin, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, George Jackson, James Jones, Michael Leib, James Linn, Nathaniel Macon, Anthony New, John Nicholas, John Randolph, John Smilie, Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, and Joseph B. Varnum.—28.

The other resolutions, as amended, were also agreed to, and the Committee of Ways and Means directed to bring in a bill or bills conformable thereto.

HEIRS OF HARDING AND TRUEMAN.

The House then went into Committee of the Whole on the bill making provision for the orphan children of Colonel Harding and Major Trueman; when the unfavorable report of the Committee of Claims on the petition of Mrs. Elliot, which was referred to this Committee, was taken into consideration, and, after some debate, agreed to—yeas 36, nays 28.

The unfavorable reports on the petition of Mrs. Wooster, and on the petition of Mrs. Lynch, were also agreed to.

The bill for the relief of the orphan children was next taken up, and agreed to. The Committee then rose, and the House proceeded to the consideration of the report; when

Mr. HARRISON moved that the decision on the petition of Mrs. Elliot be postponed till the first Monday in December next; which was carried—yeas 40.

On motion of Mr. D. FOSTER, the decision of Mrs. Wooster's case was also postponed until that day.

Mr. MACON then moved that the further consideration of the bill be also postponed to that day; which was negatived, only 24 members voting in favor of it; and the bill was ordered to be read a third time to-morrow.

The report on the petition of Mrs. Lynch was concurred in.

THURSDAY, May 8.

The bill entitled an act to make further provision for the orphan children of Colonel John Harding, and the orphan daughter of Major Alexander Trueman, deceased, was read a third time, and passed.

The bill for the relief of Ithamer Canfield was read a third time, and passed.

Mr. HARPER brought in a bill to retain a further sum on drawbacks, for the expenses incident to the allowance and payment thereof, and in lieu of the stamp duties on debentures; and a bill to lay additional duties on certain articles imported; which were, respectively, read a first and second time, and ordered to the third reading. The bills were then engrossed, read a third time, and passed.

Mr. GRISWOLD, from the committee appointed, on the twentieth of March last, to examine the accounts of the United States relating to the public debt, and to report the amount respectively incurred and extinguished, and generally such facts as relate to the increase and diminution of the same, since the establishment of the Government of the United States under the present Constitution, made a report; which was read, and ordered to lie on the table.

Mr. SMITH, from the Committee of Commerce and Manufactures, to whom was referred the bill from the Senate, to permit the exportation of certain parcels of gunpowder, muskets, and cutlassess, made a report, that the said bill ought not to pass. The question was then put, "Shall the bill pass?" and resolved in the negative.

The SPEAKER laid before the House a letter enclosing a report from James McHenry, Oliver Wolcott, and James Steele, Esqs., on the subject of the Canadian and Nova Scotia refugees.

The report was referred to the select committee heretofore appointed on this subject, on the part of whom, Mr. GALLATIN immediately brought in a bill regulating the grants of land appropriated for the refugees from the Provinces of Canada and Nova Scotia; which was read a first and second time, and committed for Friday.

The House proceeded to consider the report, made yesterday, from the managers appointed to attend a conference with the Senate, on the subject-matter of the amendments depending between the two Houses to the bill, entitled "An act supplemental to the act, entitled 'An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a Government in the Mississippi Territory,'" when the report was concurred in as follows:

Resolved, That this House do recede from their disagreement to the amendment of the Senate to

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Additional Appropriations, &c.

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the first section of the bill above mentioned, and do agree to the said amendment, with an amendment.

Resolved, That this House do recede from their disagreement to the amendment of the Senate to the ninth section of the said bill; and do agree to the amendment of the Senate to the first amendment of this House to the tenth section, proposed to be inserted by the Senate.

Mr. RUTLEDGE laid on the table the following resolution:

"Resolved, That a committee be appointed to inquire and report, whether any and what additional allowances ought to be made to the salaries of the district Judges of the several district Courts of the United States."

The bill to permit, in certain cases, the bringing of slaves into the Mississippi Territory, was taken up in Committee, agreed to without amendment, and ordered to be read a third time to-morrow.

Mr. CLAIBORNE, from the committee to whom was referred the laws passed by the Governor and Judges of the Mississippi Territory, made a report, recommending the adoption of a joint resolution for repealing two of said laws—the one relating to granting licenses to tavern keepers, the other fixing the fees to be exacted in certain cases by the Judges of that Territory.

The resolution was read a first and second time, and ordered to a third reading to-morrow.

The House went into Committee of the Whole on the bill relative to making provision for allowing rations to Indians on visiting the seat of Government; when the bill was agreed to without amendment, and ordered to be read a third time to-morrow.

ADDITIONAL APPROPRIATIONS.

The House went into Committee of the Whole on the bill making certain additional appropriations for the year 1800; when the resolution referred to this Committee, making certain additional appropriations for fortifications, was agreed to, and a section for that purpose added to the bill. By this bill \$32,000 are appropriated for defraying the expenses incurred by both Houses in doing honor to the memory of General Washington; to the Choctaw nation of Indians, \$2,000; for the reimbursement of moneys advanced by Consuls of the United States in defending captured property of citizens of the United States in foreign countries, \$5,000; for defraying costs of prosecution before the Court of Appeals in England, \$44,000; for expenses of Indians visiting the seat of Government, \$7,500; additional compensation to officers of both Houses of Congress, \$1,500; for expenses incident to the establishment of the general stamp office, and salary of superintendent, &c., \$400; for expenses incident to the establishment of the Indiana Territory, including salary of Governor, Judges, &c., thereof, \$4,000; for exploring copper mines on Lake Superior, \$1,500; and for fortifications, \$100,000.

Mr. CLAIBORNE moved a new section to the bill, authorizing the grant of \$1,925 to John Pitchyn, as compensation as interpreter on the part

of the United States to the Choctaw nation of Indians, at the treaty of Hopewell, authorized by the old Confederation.

The section, after some debate, was agreed to. The Committee then rose, the House concurred, and the bill was ordered to be engrossed for a third reading to-morrow.

MEMORY OF WASHINGTON.

Mr. H. LEE from the select committee appointed to consider what measures it would be proper for Congress to adopt for paying suitable respect to the memory of the man first in peace, first in war, and first in the hearts of his countrymen—the deceased General WASHINGTON—made a report, recommending the adoption of the following resolutions:

"Resolved, That the resolution of Congress passed in the year 1783, respecting an equestrian statue of General WASHINGTON, be carried into immediate execution, and that the statue be placed in the centre of an area to be formed in front of the Capitol.

"Resolved, That a marble monument be erected by the United States in the Capitol at the city of Washington, in honor of General WASHINGTON to commemorate his services, and to express the regrets of the American people for their irreparable loss.

"Resolved, That the President of the United States be requested to give such directions as may appear to him proper to carry the preceding resolutions into effect; and that for the present the sum of \$100,000 be appropriated for these purposes."

The resolutions were referred to a Committee of the whole House, and immediately taken into consideration; when

Mr. HARPER moved to amend the first resolution, by inserting that a mausoleum be erected for General WASHINGTON, in the city of Washington, instead of the statue proposed, which was carried; the other resolutions were negatived, of course.

The Committee then rose, and the resolution, as amended by Mr. HARPER, was agreed to by the House, and a bill ordered to be brought in pursuant thereto.

COMPENSATION OF COLLECTORS.

A message was received from the Senate, informing the House that they have passed the bill supplementary to the act entitled an act to establish the compensation of the officers employed in the collection of duties on imports and tonnage, with amendments.

The Senate proposed to add a new section making it the duty of the collectors of the respective ports of Philadelphia, Baltimore, New York, Boston, and Charleston, to deposit in the Bank of the United States, or one of the banks of deposit, all bonds by them received, for payment of duties; which bonds are to be collected by and at the risk of said banks, with the usual per centage.

This was agreed to.

FRIDAY, May 9.

The following engrossed bills were read and passed, viz:

An act to make provision relative to rations for Indians and their visits to the seat of Government;

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The Treasury Department, &c.

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An act to permit, in certain cases, the bringing of slaves into the Mississippi Territory;

An act to authorize certain expenditures, and to make certain appropriations for the year 1800.

A resolution yesterday reported, by Mr. CLAIBORNE, from a select committee, respecting so much of the laws passed by the Governor and the two Judges of the Mississippi Territory as granted eight dollars for every tavern license to the Governor; and so much of the laws of the said Territory as gave to the Judges certain fees in the Courts thereof, was taken up. The resolution was to repeal and nullify the aforesaid laws. The House unanimously concurred.

The amendments to the act respecting surveyors, were agreed to, except one, which was negatived. The amendments to the other bills were concurred in.

The House went into Committee on the bill to revive and continue in force an act entitled "An act for establishing trading houses with the Indian tribes."

This bill was ordered for a third reading which it subsequently had, and was passed.

THE TREASURY DEPARTMENT.

The House went into a Committee on the act supplementary to the act entitled "An act to establish the Treasury Department."

The Committee rose and reported the bill—which provided that the Secretary of the Treasury should lay before Congress, at the commencement of every session, a report on the subject of finance, together with such plans for improving the revenue as may occur to him.

Mr. GALLATIN and Mr. NICHOLAS opposed the passing of the bill, on Constitutional principles. They observed, that as all money bills were to originate in the House of Representatives, the Senate had no right to propose any bill by which that provision was changed; nor could the Secretary of the Treasury, upon the same ground, propose anything that should originate any money bill. Heretofore, it had been usual, when information was wanting by the House, to call for it from that Department, and the same could be done again.

It was contended by Mr. GRISWOLD and Mr. HARPER, that it was not a power to report a bill, but merely the state of our finances, which, for want of due notice, had heretofore been delayed, so as to throw all the most important business upon the close of the session, whereas, by a leisurely and mature examination, the Secretary of Treasury would be enabled to make a timely and complete report.

The bill passed to its third reading—43 to 39.

AMENDMENTS TO BILLS.

Amendments were proposed by the Senate to the following bills:

An act to ascertain the compensation to public Ministers;

An act to enlarge the powers of Surveyors of the Revenue;

An act making appropriations for the Navy of the United States during the year 1800;

An act prescribing the mode of counting the

votes in the election of President and Vice President of the United States.

One of the amendments to the bill respecting the election of President, was, instead of the word "rejecting" (in the bill) any vote or votes by a concurrent vote of the two Houses, the word "admitting" was proposed by the Senate.

Mr. HARPER and Mr. BAYARD hoped the House would not concur, as this amendment very materially changed the principle of the bill, inasmuch as it would put it in the power of one or two members of either House to require the majority of both Houses to admit a vote or votes; in default of which, the whole votes of a State might be totally rejected. This was contrary to the former will of the House, after a mature deliberation.

The yeas and nays were called by Mr. NICHOLAS, on the question "Shall the amendments of the Senate be concurred in?" and decided in the negative—yeas 15, nays 73, as follows:

YEAS—John Brown, Samuel W. Dana, Franklin Davenport, Dwight Foster, Chauncey Goodrich, Roger Griswold, James H. Inlay, Samuel Lyman, Jonas Platt, James Sheafe, William Shepard, George Thatcher, Robert Waln, Lemuel Williams, and Henry Woods.

NAYS—Willis Alston, George Baer, Theodorus Bailey, Bailey Bartlett, James A. Bayard, Phanuel Bishop, Jonathan Brace, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, William Cooper, William Craik, John Davenport, Thomas T. Davis, John Dawson, George Dent, Joseph Dickson, Joseph Eggleston, Lucas Elmdorf, Thomas Evans, Abiel Foster, John Fowler, Jonathan Freeman, Albert Gallatin, Henry Glen, Elizur Goodrich, Edwin Gray, Andrew Gregg, John A. Hanna, Robert Goodloe Harper, Thomas Hartley, Joseph Heister, William H. Hill, David Holmes, George Jackson, James Jones, Aaron Kitchell, John Wilkes Kittera, Michael Leib, Matthew Lyon, James Linn, Edward Livingston, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Abraham Nott, Robert Page, Thomas Pinckney, Leven Powell, John Randolph, John Reed, John Rutledge, jun., Samuel Sewall, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, Thomas Sumter, John Chew Thomas, Richard Thomas, John Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Peleg Wadsworth, and Robert Williams.

SALT SPRINGS.

The House went into Committee on the bill to authorize the Secretary of the Treasury to lease certain salt springs, the property of the United States, in the Territory Northwest of the Ohio.

Mr. HARRISON moved to strike out the whole bill, for the purpose of inserting another.

The SPEAKER moved that, for the true understanding of a bill, new in its principles, the Committee rise, which was accordingly done. Leave was refused to sit again, when Mr. CLAIBORNE moved that the bill be postponed till the first Monday in December next. This was carried.

CANADIAN REFUGEES.

Mr. GALLATIN, from the committee to whom was referred the report of the Secretary of War and the Secretary and Comptroller of the Treasu-

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Memory of Washington.

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ry, on the subject of Canadian and Nova Scotia refugees, made a report, which was referred to the Committee of the Whole, to whom was referred the bill regulating grants of land appropriated for the refugees of the British provinces of Canada and Nova Scotia. The House then went into a Committee on the said bill, and it was ordered to be engrossed for a third reading, which was subsequently done, and the bill passed.

MEMORY OF WASHINGTON.

Mr. EVANS, from the committee appointed for that purpose, reported a bill for erecting a mausoleum for GEORGE WASHINGTON, in the city of Washington.

The bill provided that it should be one hundred feet square at the base, and of a proportionate height.

Mr. EGGLESTON wished to hear the estimated price.

Mr. HARPER said he had an estimate from Mr. Latrobe, of Philadelphia, who was the architect employed on the Pennsylvania Bank, the estimate of which had rather been over the actual expense; the estimate was, that a pyramid of one hundred feet at the bottom, with nineteen steps, having a chamber thirty feet square, made of granite, to be taken from the Potomac, with a marble sarcophagus in the centre, and four marble pillars on the outside, besides other proportionate ornaments, would amount to \$62,500. He hoped no objection would be made to the price, since it could not occur on any future occasion, as *another WASHINGTON would never die*.

Mr. NICHOLAS thought every sense of respect would be as well signified by a building of less dimensions, and it would be considerable less expense; he moved to strike out one hundred and insert sixty. After some debate, this was negatived.

The bill was then ordered to be engrossed for its third reading.

MEETING OF CONGRESS.

A bill was received from the Senate appointing the time and directing the place of the next meeting of Congress, which provided that the two Houses should meet at the city of Washington on the third Monday in November next.

The House went into Committee thereupon, which was reported. On the question for its third reading, it was carried—yeas 32, nays 32. The SPEAKER voted in the affirmative, and it was ordered to a third reading to-morrow.

SATURDAY, May 10.

MEMORY OF WASHINGTON.

The bill for erecting a mausoleum for GEORGE WASHINGTON, in the city of Washington, was read a third time; and upon the question, Shall the bill pass?

Mr. KITCHELL called the yeas and nays upon it, and proceeded to give his reasons why he would vote against the bill. He was followed by Mr. HARPER in favor of it, and Mr. RANDOLPH against

it; when the question was taken, and the bill passed—yeas 54, nays 19, as follows:

YEAS—Willis Alston, Bailey Bartlett, James A. Bayard, Jonathan Brace, John Brown, Gabriel Christie, William C. C. Claiborne, William Craik, Samuel W. Dana, Franklin Davenport, Thomas T. Davis, John Dawson, George Dent, Joseph Dickson, Thomas Evans, Abiel Foster, Albert Gallatin, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Edwin Gray, Roger Griswold, John A. Hanna, Robert Goodloe Harper, David Holmes, Benjamin Huger, James H. Imlay, James Jones, John Wilkes Kittera, Henry Lee, Silas Lee, Edward Livingston, Lewis R. Morris, Peter Muhlenberg, Abraham Nott, Robert Page, Jonas Platt, Leven Powell, John Reed, John Rutledge, jun., Samuel Sewall, James Sheafe, John Smith, Samuel Smith, Richard Dobbs Spaight, George Thatcher, John C. Thomas, Richard Thomas, Abram Trigg, Philip Van Cortlandt, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

NAYS—Theodorus Bailey, Robert Brown, Matthew Clay, John Condit, John Davenport, George Jackson, Aaron Kitchell, Michael Leib, James Linn, Nathaniel Macon, Anthony New, John Nicholas, John Randolph, William Shepard, John Smilie, Thomas Sumter, John Thompson, John Trigg, and Joseph B. Varnum.

NEXT MEETING OF CONGRESS.

The bill from the Senate appointing the time and directing the place of the next meeting of Congress, was read a third time; when

Mr. BAYARD moved that it be recommitted to a Committee of the whole House, for the purpose of altering the time of commencing the session. After some debate, the motion was negatived.

The question was then put, Shall the bill pass? and resolved in the affirmative—yeas 41, nays 35. The next meeting of Congress will of course take place on the third Monday in November next.

THE MINT.

The House went into a Committee of the Whole on the bill from the Senate supplementary to the act establishing the Mint, and regulating the coins of the United States.

The object of this bill, which is to authorize the Secretary of the Treasury to contract with the Bank of the United States for the disposal of the right of coinage for ten years, was objected to by Mr. GALLATIN, who wished the bill to be postponed till next session; or that the coinage should be discontinued, and the implements sold; and not that it should be placed in the power of the bank.

Mr. C. GOODRICH said, that some arrangement should be made on the subject. By the existing law the Mint was to be removed to the seat of Government, at the city of Washington—and it was highly questionable whether the removal would not conduce to the destruction of the institution; the project of the Senate, therefore, appeared to him the best we could adopt; it would relieve us from the coinage, and expense attending the business, at the same time that it would afford a reasonable profit to the bank, who, at first, would incur very great expense, as the dies were extremely defective, and new ones would have to be procured.

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Army Bill.

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Mr. GALLATIN moved to strike out the twelfth section of the bill, and insert that the Mint shall be continued at Philadelphia until 5th March, 1801. This would leave it in the power of Congress to take the subject into mature consideration next session.

The motion was carried, yeas 40, noes 31; the Committee rose, and the House concurred.

The bill was then ordered to be read a third time; and having received its third reading, was passed as amended.

A message from the Senate informed the House that they disagreed to this amendment; also, also, that they have passed the bill authorizing the issuing of certain patents, and a bill directing the payment of a detachment of militia under the command of Major Thomas Johnson, in 1794, each with amendment.

Also, that they disagree to the amendment proposed by this House to their amendment to the bill, entitled "An act to enlarge the powers of Surveyors of the Revenue."

The House proceeded to consider the latter bill, and

Resolved, That a conference be requested with the Senate on the subject-matter of the said amendment disagreed to by the Senate; and that Mr. GRISWOLD, Mr. HARPER, and Mr. NOTT, be appointed managers at the same, on the part of this House.

[Subsequently the Senate agreed to the conference proposed.]

IMPRISONMENT FOR DEBT.

The bill making further provision for the relief of persons imprisoned for debts due the United States, was taken up in Committee, agreed to, and upon the question shall the bill be engrossed for a third reading, it passed in the affirmative—yeas 36, nays 25. The bill was subsequently read the third time and passed—yeas 39, nays 27.

[By this bill no person indebted to the United States can be discharged from prison, unless he shall have suffered two years imprisonment.]

ELECTIONS OF PRESIDENT.

A message was received from the Senate informing the House that the Senate adhere to their disagreement to the amendments to the bill prescribing the mode of deciding disputed elections of President and Vice President of the United States, made by this House, and subsequently insisted on Whereupon,

Mr. HARPER moved that this House do also adhere to their disagreement to recede; which was carried, and the bill, consequently, is lost.

SUPPLEMENTARY ARMY BILL.

The House went into the Committee of the Whole on the bill from the Senate supplementary to the act to augment the Army of the United States; when

Mr. HARPER, in pursuance of his motion referred to this Committee, moved an additional section, authorizing the President, whenever in his opinion the negotiations with France will warrant the measure, to discharge the additional army, ex-

cept the engineers, raised in pursuance of the act to which this is a supplement.

Mr. S. SMITH thought the measure warrantable at present, and moved to strike out the responsibility imposed on the President of waiting till the preliminaries of peace were signed.

Mr. RUTLEDGE opposed this motion, as did Mr. H. LEE, and Mr. SEDGWICK.

Mr. S. SMITH spoke in reply, and said he had been the original mover of this army, had voted for retaining it; but was now of opinion it was totally unnecessary, and was sorry it was ever adopted; he thought it of no use, whether this country accommodated her differences or not with the French Republic, so little was the danger of invasion.

The motion was negatived—yeas 38, nays 41.

The section was then agreed to.

Mr. SEWALL moved a new section, for allowing one month's pay, in addition to the allowance now made by law, as a compensation for their services, and expenses in returning home; which was adopted—yeas 42, nays 27. The Committee then rose, and

Mr. S. SMITH renewed his motion for striking out part of the new section added on motion of Mr. HARPER, and called the yeas and nays upon it, which were taken and stood—yeas 38, nays 42, as follows:

YEAS—Willis Alston, Theodorus Bailey, Robert Brown, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, Thomas T. Davis, John Dawson, John Fowler, Albert Gallatin, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, George Jackson, James Jones, Aaron Kitchell, Matthew Lyon, James Linn, Edward Livingston, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Abraham Nott, John Randolph, John Smilie, John Smith, Samuel Smith, Richard Stanford, David Stone, Thomas Sumter, John Thompson, Abram Trigg, John Trigg, Joseph B. Varnum, and Robert Williams.

NAYS—George Baer, Bailey Bartlett, James A. Bayard, Jonathan Brace, John Brown, William Cooper, William Craik, John Davenport, Franklin Davenport, George Dent, Thomas Evans, Abiel Foster, Dwight Foster, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Edwin Gray, Roger Griswold, William Barry Grove, Robert Goodloe Harper, William H. Hill, Benjamin Huger, James H. Imlay, John Wilkes Kittera, Silas Lee, Lewis R. Morris, Robert Page, Thomas Pinckney, Jonas Platt, Levin Powell, John Reed, John Rutledge, jr., Samuel Sewall, James Sheafe, William Shepard, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Wain, Lemuel Williams, and Henry Woods.

On the question for concurring with the Committee in adding the new section proposed by Mr. SEWALL, Mr. RANDOLPH spoke at considerable length against it, and called the yeas and nays upon it; which were taken and the section adopted, yeas 47, nays 27, as follows.

YEAS—Willis Alston, George Baer, Theodorus Bailey, Bailey Bartlett, Jonathan Brace, John Brown, Gabriel Christie, William Charles Cole Claiborne, William Cooper, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, George Dent, Thomas Evans, Abiel Foster, Dwight Foster, John Fowler,

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Mississippi Laws.

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Henry Glen, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, William B. Grove, Robert Goodloe Harper, Wm. H. Hill, Benjamin Huger, James H. Inlay, John Wilkes Kittera, Silas Lee, Lewis R. Morris, Peter Muhlenberg, Abraham Nott, Robert Page, Jonas Platt, Leven Powell, John Reed, John Rutledge, jr., Samuel Sewall, James Sheafe, William Shepard, George Thatcher, John Chew Thomas, Richard Thomas, Joseph B. Varnum, Peleg Wadsworth, Robert Waln, and Lemuel Williams.

NAYS—Robert Brown, Matthew Clay, John Condit, Thomas T. Davis, Albert Gallatin, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, George Jackson, James Jones, Aaron Kitchell, Matthew Lyon, Jas. Linn, Edward Livingston, Nathaniel Macon, Anthony New, John Nicholas, John Randolph, John Smilie, John Smith, Richard Stanford, David Stone, Thomas Sumter, John Thompson, Abram Trigg, and John Trigg,

The bill was then read the third time and passed.

MONDAY, May 12.

On motion of Mr. NICHOLAS, the House rescinded a resolution to adjourn the two Houses this day, and a resolution was adopted that the President of the Senate and the Speaker of the House should adjourn both Houses to-morrow. The Senate amended it by proposing Wednesday. On the question of concurrence, it was carried, 40 to 24.

The House resolved itself into Committee on the bill from the Senate, to amend an act entitled an act to establish the Judicial Courts of the United States.

This bill provides that jurors in the Courts of the United States shall be designated by lot, or otherwise, according to the mode now practised in the highest courts of the several States.

The bill was agreed to, read a third time and passed.

Mr. GRISWOLD, from the managers of the conference on the disagreeing votes to the bill to enlarge the powers of surveyors of the revenue, made a report, to which the House agreed. The Senate also concurred.

The Senate's amendments to the bill authorizing the payment of a detachment of militia, under the command of Thomas Johnson, and to the bill to authorize the issuing of certain patents, were taken up and concurred in.

A joint committee of conference was appointed on the bill respecting the Mint establishment.

The House proceeded to consider the amendment proposed by the Senate to the bill, entitled "An act authorizing the issuing certain patents." Whereupon,

Resolved, That this House doth agree to the said amendment.

A message from the Senate, informed the House that the Senate agree to the resolution for postponing the time of adjournment of the two Houses, with an amendment; to which they desire the concurrence of this House.

The House proceeded to consider the amendment proposed by the Senate to the resolution for postponing the time of adjournment: Whereupon,

Resolved, That this House doth agree to the said amendment.

TUESDAY, May 13.

Mr. C. GOODRICH, from the managers on the part of this House to confer with the conferees of the Senate, on the subject of the disagreement of the two Houses to the bill respecting the Mint Establishment reported their opinion, that it would be proper for this House to recede from their amendment to the said bill, which he moved; but, on the question being taken, it was determined to adhere, 35 to 22. A message was afterwards received from the Senate, notifying the House that they recede from their opposition to the same; so that the bill passed with the amendment of the House, which was that the Mint should remain at Philadelphia, upon the present plan, till 4th of March, 1801.

A message was received from the Senate informing the House that they had agreed to the following bills with sundry amendments, to which they desired the concurrence of the House: An act to authorize certain expenditures, and to make certain additional appropriations for the year 1800; An act authorizing the payment of a certain sum of money for holding a treaty or treaties with the Indians; An act to make further provision for the orphan children of Colonel John Harding and Major Alexander Trueman, deceased.

The House concurred in the amendments to the same.

On motion of Mr. DENT, it was

Resolved, That the third engrossing clerk in the office of the Clerk of the House, be kept in the service of the House during the recess, on account of the removal of the office to the future seat of Government.

WEDNESDAY, May 14.

A message was received from the Senate informing the House that the Senate have resolved that the resolution for repealing two of the laws passed by the Governor and Judges of the Mississippi Territory, be postponed till next session of Congress; that the Senate concur in the amendments of this House to the bill supplementary to the act to augment the Army of the United States, with amendments.

The amendments having been taken into consideration, the first, which was to fix the day of disbanding the army on or before the 15th June next, was concurred in.

The second amendment, which was to insert a proviso, that nothing in the act contained should be construed to authorize a deduction of the first four regiments of infantry, two regiments of engineers, and two companies of light dragoons, or of the general and other officers of the staff, appertaining thereto, was also agreed to.

The third amendment was to allow three months additional pay, instead of two, as proposed by this House; which was carried—yeas 35.

MISSISSIPPI LAWS.

Mr. DAVIS, after observing that the Senate had postponed, till the next session of Congress, the resolution unanimously adopted by this, for the repeal of two laws obnoxious to the people of the

MAY, 1800.

Canadian Refugees.

H. OF R.

Mississippi Territory, moved the following resolution, with a recital, viz :

"Whereas, the extensive Territories of the United States, exclusive of the particular States, have rendered subordinate governments indispensable for local and temporary objects, and a system of this nature, calculated for the Northwest Territory, has been applied to that of the Mississippi, and now pervades the whole by separate jurisdictions, the number of which it is proposed to increase; and in each a Governor, appointed by the General Government, and removed from office at the pleasure of the President of the United States, is made the first and most important official character; whence it is of high concern to the internal quiet and prosperity of the people in those Territories, as well as of much moment to the political interests of the United States, and to the confidence reposed in the President, to continue in office such Governors only as shall have conducted themselves with propriety, and especially within the limits of legal authority; since the experience of all times, and the evidence of all history, prove that Governors, responsible only to those at a distance, are prone to disregard the good of the governed; to usurp authority, and to abuse the trust confided to them, and that connivance and impurity forever become the prolific parents of crime and oppression.

And whereas it is in particular represented to Congress, by the people of the Mississippi Territory, that Winthrop Sargent, the present Governor thereof, has acted under the influence of a faction, and pursued the principles of despotism, by excluding from his confidence a majority of the well-disposed citizens; by indulging an unwarrantable distrust of the great body of the people; and by appointing to offices, civil and military, over them, many persons who were obnoxious for their intrigues and foreign connexions.

That he has practised an avarice hateful to a liberal people, and an extortion odious and oppressive to free citizens, by exacting and receiving fees for passports, and for marriage licenses; and that he has, with others, exercised the most dangerous assumption of power, by enacting new laws for the Territory, instead of adopting laws from the original States, and by annexing to a breach of them the most rigorous penalties of forfeiture and confiscation.

And whereas it appears to this House, that the said Winthrop Sargent did acknowledge that he had deviated from the ordinance for the government of the Territories, whereby it is enacted, "that the Governor and Judges, or a majority of them, shall adopt and publish in the district, such laws of the original States, criminal and civil, as may be necessary, and best suited to the circumstances of the district," inasmuch as, in his letter of the 5th of October, 1799, directed by him and two of the Judges to a committee of the inhabitants of the Territory, he declares, "that there are few laws of this Territory, either of a civil or a criminal nature, but what are derived from some one of the State codes, and where we have ventured to depart from them, it has been in favor of our citizens, by lessening of fines and penalties; but when it has so happened that evils actually existed among us, for the remedy of which no provision could be found in the laws to which we had access, we have not so far distrusted our authority, as not to take immediate steps to prevent their growth and continuance."

That, by the authenticated transcript of the laws thus enacted, which have been officially transmitted to Congress, it does not appear whether the said laws have been taken from the code of laws of any of the States.

That, by one of the aforesaid laws, entitled "a law authorizing the Governor to establish public ferries," after declaring in the preamble of the same, that no law concerning ferries can be found for adoption, it is enacted, that the Governor be authorized to declare, by proclamation or otherwise, from time to time, what ferries shall be established, and by whom to be kept; and that if any person, without authority as aforesaid, shall keep a ferry, he shall forfeit, to the use of the country, the sum of fifty dollars.

That by another of the aforesaid laws entitled "A law respecting crimes and punishments," it is enacted "that any person or persons guilty of treason, shall, upon conviction thereof, suffer the pains of death, and shall moreover forfeit all his, her, or their estate real and personal to the Territory," although the Constitution of the United States declares "that no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attained."

That by another law passed by the said Governor and Judges, entitled "A law to regulate taverns," it is enacted that the Governor should have and receive for every license by him granted pursuant to this law, to sell wine and other liquors, the sum of eight dollars; although the Governor receives, as such, the sum of \$2,000 per annum from the United States.

And that by another law thus passed by the Governor and Judges, entitled "A law establishing and regulating fees," &c., it is enacted "that the Judges of the Supreme Court shall be entitled to receive fees for allowing writs of errors and supersedeas, &c., for taking bail, filing bail, &c., for the first motion in every civil cause, taxing bills of costs, signing judgment," and for a variety of other services, particularly enumerated in the aforesaid law, although each of the said Judges receive as such a salary of \$800 per annum from the United States.

From whence it is evident, that the said Winthrop Sargent, being, in conjunction with the Judges, entrusted with the important power of adopting for the Territory such laws of the individual States as might be suited to the circumstances of the said Territory, has, in conjunction with the Judges, abused the power thus delegated, by usurping an authority of making new laws, not to be found amongst the laws of the individual States, by prescribing penalties inconsistent with the Constitution of the United States, and by combining with the said Judges in enacting laws for the purpose of exacting sums of money from the inhabitants of said Territory, for his and the said Judges' private use and emolument: Therefore

Resolved, That the laws passed by the Governor and Judges of the Mississippi Territory, and the petition of Cato West and others, together with all the documents relative thereto, be transmitted to the President of the United States."

Upon the question, Will the House now take the preceding resolution into consideration? a very warm debate ensued; it was finally determined in the negative—only 21 members voting in favor of it; and it was ordered to lie on the table.

CANADIAN REFUGEES.

A message from the Senate informed the House that the Senate have passed the bill regulating the grants of land to the Canada and Nova Scotia refugees, with amendments.

The amendments were taken into consideration, and opposed by Mr. GALLATIN, who said the ob-

ject of the Senate was to give the refugees land worth ten cents an acre, instead of good land worth one dollar per acre, as proposed by this House; rather than do this, he would give them nothing.

Mr. LIVINGSTON was of the same opinion, and hoped the House would not concur. These people had waited eighteen years, and he thought it extremely hard they should now be put off in this manner.

The amendments were unanimously rejected.

A message from the Senate informed the House that they adhered to the amendment; whereupon,

Mr. GALLATIN moved that the further consideration of the bill be postponed till the third Monday in November next; which was carried.

After receiving several messages from the President, notifying the signing of various bills, there appearing no further business before the House, on motion of Mr. C. GOODRICH, a resolution for

the appointment of a joint committee to wait on the President, and inform him of the proposed recess was adopted, and was concurred in by the Senate.

Mr. C. GOODRICH, from the Joint Committee, reported that they had performed that service, and that the President informed them he had no other communication to make, except his good wishes for their health and happiness, and that he wished them a pleasant journey to their respective homes.

A message having been sent to the Senate to inform them this House was ready to adjourn, after a few minutes a motion was made for that purpose, and carried; when

The SPEAKER, after taking an affectionate farewell of the members, and expressing his wish for their safe return and happiness, during the recess, adjourned the House till the third Monday in November next, to meet in the city of Washington, in the District of Columbia.

PROCEEDINGS

OF

THE SENATE OF THE UNITED STATES,

AT THE SECOND SESSION OF THE SIXTH CONGRESS, BEGUN AT THE CITY OF
WASHINGTON, NOVEMBER 17, 1800.

MONDAY, November 17, 1800.

In pursuance of the law of last session, the second session of the sixth Congress commenced this day, at the city of Washington, and the Senate assembled, in their Chamber, at the Capitol.

PRESENT:

JOHN LANGDON and SAMUEL LIVERMORE, from New Hampshire;

DWIGHT FOSTER, from Massachusetts;

JAMES HILLHOUSE and URIAH TRACY, from Connecticut;

THEODORE FOSTER, from Rhode Island;

NATHANIEL CHIPMAN, from Vermont;

JAMES SCHUREMAN, from New Jersey;

WILLIAM HILL WELLS, from Delaware;

JOHN E. HOWARD, from Maryland;

STEPHENS THOMPSON MASON, from Virginia;

JOHN BROWN, from Kentucky;

JOSEPH ANDERSON and WILLIAM COCKE, from Tennessee;

ABRAHAM BALDWIN, from Georgia.

The number of members present not being sufficient to constitute a quorum, the Senate adjourned to 11 o'clock to-morrow morning.

TUESDAY, November 18.

The number of members present not being sufficient to constitute a quorum, the Senate adjourned.

WEDNESDAY, November 19.

There being no quorum, the Senate adjourned.

THURSDAY, November 20.

There being no quorum present, the Senate adjourned.

FRIDAY, November 21.

TIMOTHY BLOODWORTH, from the State of North Carolina; HUMPHREY MARSHALL, from the State of Kentucky; and GOUVERNEUR MORRIS, from the State of New York, severally attended.

The credentials of DWIGHT FOSTER, appointed a Senator by the State of Massachusetts, in place of Samuel Dexter, resigned, were read, and he took his seat in the Senate.

The VICE PRESIDENT being absent, the Senate proceeded to the election of a President *pro tempore*, as the Constitution provides, and JOHN E. HOWARD was chosen.

The PRESIDENT administered the oath prescribed by law to Mr. FOSTER.

Ordered, That the Secretary wait on the President of the United States, and acquaint him that a quorum of the Senate is assembled, and that, in the absence of the Vice President, they have elected JOHN E. HOWARD President of the Senate *pro tempore*.

Ordered, That the Secretary acquaint the House of Representatives that a quorum of the Senate is assembled and ready to proceed to business; and that, in the absence of the Vice President, they have elected JOHN E. HOWARD President of the Senate *pro tempore*.

A message from the House of Representatives informed the Senate that a quorum of the House is assembled, and they have appointed a committee, on their part, together with such committee as the Senate may appoint, to wait on the President of the United States, and notify him that a quorum of the two Houses is assembled, and ready to receive any communications that he may be pleased to make to them.

Resolved, That the Senate concur in the resolution last recited, and that Messrs. WELLS and TRACY be the committee on the part of the Senate.

Mr. WELLS reported, from the joint committee last mentioned, that they had waited on the President of the United States; and that he acquainted the committee that he would meet the two Houses of Congress, at 12 o'clock to-morrow, in the Senate Chamber.

SATURDAY, November 22.

Ordered, That the Secretary notify the House of Representatives, that the Senate are ready to meet them in their Chamber, for the purpose of receiving the communications from the President of the United States.

The House of Representatives having accordingly taken the seats assigned them, the PRESIDENT OF THE UNITED STATES came into the Senate Chamber, and addressed both Houses of Congress as follows:

SENATE.

Proceedings.

NOVEMBER, 1800.

*Gentlemen of the Senate, and
Gentlemen of the House of Representatives.*

Immediately after the adjournment of Congress at their last session in Philadelphia, I gave directions, in compliance with the laws, for the removal of the public offices, records, and property. These directions have been executed, and the public officers have since resided and conducted the ordinary business of the Government in this place.

I congratulate the people of the United States on the assembling of Congress at the permanent seat of their Government; and I congratulate you, gentlemen, on the prospect of a residence not to be changed. Although there is cause to apprehend that accommodations are not now so complete as might be wished, yet there is great reason to believe that this inconvenience will cease with the present session.

It would be unbecoming the Representatives of this nation to assemble, for the first time, in this solemn temple, without looking up to the Supreme Ruler of the Universe, and imploring his blessing.

May this Territory be the residence of virtue and happiness! In this city may that piety and virtue, that wisdom and magnanimity, that constancy and self-government which adorned the great character whose name it bears, be forever held in veneration! Here, and throughout our country, may simple manners, pure morals, and true religion, flourish forever!

It is with you, gentlemen, to consider whether the local powers over the District of Columbia, vested by the Constitution in the Congress of the United States, shall be immediately exercised. If, in your opinion, this important trust ought now to be executed, you cannot fail, while performing it, to take into view the future probable situation of the Territory for the happiness of which you are about to provide. You will consider it as the Capital of a great nation, advancing, with unexampled rapidity, in arts, in commerce, in wealth, and in population; and possessing, within itself, those energies and resources which, if not thrown away, or lamentably misdirected, will secure to it a long course of prosperity and self-government.

In compliance with a law of the last session of Congress, the officers and soldiers of the temporary army have been discharged. It affords real pleasure to recollect the honorable testimony they gave of the patriotic motives which brought them into the service of their country, by the readiness and regularity with which they returned to the station of private citizens.

It is, in every point of view, of such primary importance to carry the laws into prompt and faithful execution, and to render that part of the administration of justice which the Constitution and laws devolve on the federal courts, as convenient to the people as may consist with their present circumstances, that I cannot omit once more to recommend to your serious consideration the judiciary system of the United States. No subject is more interesting than this to the public happiness, and to none can those improvements which may have been suggested by experience be more beneficially applied.

A Treaty of Amity and Commerce with the King of Prussia has been concluded and ratified. The ratifications have been exchanged, and I have directed the treaty to be promulgated by proclamation.

The difficulties which suspended the execution of the sixth article of our Treaty of Amity, Commerce, and Navigation, with Great Britain, have not yet been removed. The negotiation on this subject is still pending. As it must be for the interest and honor of both

nations to adjust this difference with good faith, I indulge confidently the expectation that the sincere endeavors of the Government of the United States to bring it to an amicable termination will not be disappointed.

The Envoys Extraordinary and Ministers Plenipotentiary from the United States to France were received by the First Consul with the respect due to their character; and three persons, with equal powers, were appointed to treat with them. Although, at the date of the last official intelligence, the negotiation had not terminated, yet it is to be hoped that our efforts to effect an accommodation will at length meet with a success proportioned to the sincerity with which they have been so often repeated.

While our best endeavors for the preservation of harmony with all nations will continue to be used, the experience of the world, our own experience, admonish us of the insecurity of trusting too confidently to their success. We cannot, without committing a dangerous imprudence, abandon those measures of self protection which are adapted to our situation, and to which, notwithstanding our pacific policy, the violence and injustice of others may again compel us to resort. While our vast extent of seacoast, the commercial and agricultural habits of our people, the great capital they will continue to trust on the ocean, suggest the system of defence which will be most beneficial to ourselves, our distance from Europe, and our resources for maritime strength, will enable us to employ it with effect. Seasonable and systematic arrangements, so far as our resources will justify, for a navy, adapted to defensive war, and which may, in case of necessity, be quickly brought into use, seem to be as much recommended by a wise and true economy as by a just regard for our future tranquillity, for the safety of our shores, and for the protection of our property committed to the ocean.

The present Navy of the United States, called suddenly into existence by a great national exigency, has raised us in our own esteem; and, by the protection afforded to our commerce, has effected, to the extent of our expectations, the objects for which it was created.

In connexion with a navy ought to be contemplated the fortification of some of our principal seaports and harbors. A variety of considerations, which will readily suggest themselves, urge an attention to this measure of precaution. To give security to our principal ports, considerable sums have already been expended, but the works remain incomplete. It is for Congress to determine whether additional appropriations shall be made, in order to render competent to the intended purposes the fortifications which have been commenced.

The manufacture of arms within the United States still invites the attention of the national Legislature. At a considerable expense to the public this manufacture has been brought to such a state of maturity as, with continued encouragement, will supersede the necessity of future importations from foreign countries.

Gentlemen of the House of Representatives:

I shall direct the estimates of the appropriations necessary for the ensuing year, together with an account of the public revenue and expenditure, to a late period, to be laid before you. I observe, with much satisfaction, the product of the revenue during the present year has been more considerable than during any former equal period. This result affords conclusive evidence of the great resources of this country, and of the wisdom and efficiency of the measures which have been adopted by Congress for the protection of commerce and preservation of public credit.

NOVEMBER, 1800.

Proceedings.

SENATE.

*Gentlemen of the Senate, and**Gentlemen of the House of Representatives :*

As one of the grand community of nations, our attention is irresistibly drawn to the important scenes which surround us. If they have exhibited an uncommon portion of calamity, it is the province of humanity to deplore, and of wisdom to avoid, the causes which may have produced it. If, turning our eyes homeward, we find reason to rejoice at the prospect which presents itself; if we perceive the interior of our country prosperous, free, and happy; if all enjoy in safety, under the protection of laws emanating only from the general will, the fruits of their own labor, we ought to fortify and cling to those institutions which have been the source of such real felicity; and resist, with unabating perseverance, the progress of those dangerous innovations which may diminish their influence.

To your patriotism, gentlemen, has been confided the honorable duty of guarding the public interests; and, while the past is to your country a sure pledge that it will be faithfully discharged, permit me to assure you that your labors to promote the general happiness will receive from me the most zealous co-operation.

JOHN ADAMS.

UNITED STATES, Nov. 22, 1800.

The PRESIDENT of the UNITED STATES having retired, the two Houses separated.

Ordered, That Messrs. TRACY, MORRIS, and BALDWIN, be a committee to report the draught of an Address to the President of the United States, in answer to his Speech this day to both Houses.

It was further ordered that the Speech be printed for the use of the Senate.

Resolved, That two Chaplains of different denominations, be appointed to Congress for the present session, one by each House, who shall interchange weekly.

Resolved, That each Senator be supplied, during the present session, with three such newspapers, printed in any of the States, as he may choose, provided that the same be furnished at the rate usual for the annual charge of such papers.

MONDAY, November 24.

JONATHAN DAYTON, from the State of New Jersey, attended.

Mr. TRACY, from the committee appointed to draught an Address in answer to the Speech of the President of the United States to both Houses of Congress, at the opening of the session, made a report, which was read, and ordered to lie for consideration.

Resolved, That JAMES MATHERS, Sergeant-at-Arms and Doorkeeper to the Senate, be, and he is hereby, authorized to employ one additional assistant and two horses, for the purpose of performing such services as are usually required of the Doorkeeper to the Senate; and that the sum of twenty-eight dollars be allowed him weekly for that purpose, during the session, and for twenty days afterwards.

TUESDAY, November 25.

WILSON CARY NICHOLAS, from the State of Virginia, attended.

The Senate took into consideration the report of the committee of the draught of an Address in answer to the Speech of the President of the United States to both Houses of Congress, at the opening of the session; which, being read in paragraphs, and amended, was adopted, as follows:

To the President of the United States :

SIR: Impressed with the important truth that the hearts of rulers and people are in the hand of the Almighty, the Senate of the United States most cordially join in your invocations for appropriate blessings upon the Government and people of this Union.

We meet you, sir, and the other branch of the national Legislature in the city which is honored by the name of our late hero and sage, the illustrious WASHINGTON, with sensations and emotions which exceed our power of description.

While we congratulate ourselves on the convention of the Legislature at the permanent seat of Government, and ardently hope that permanence and stability may be communicated as well to the Government itself as to its seat, our minds are irresistibly led to deplore the death of him who bore so honorable and efficient a part in the establishment of both. Great indeed would have been our gratification if his sum of earthly happiness had been completed by seeing the Government thus peaceably convened at this place; but we derive consolation from a belief that the moment in which we were destined to experience the loss we deplore, was fixed by that Being whose counsels cannot err; and from a hope that, since in this seat of Government, which bears his name, his earthly remains will be deposited, the members of Congress, and all who inhabit the city, with these memorials before them, will retain his virtues in lively recollection, and make his patriotism, morals, and piety, models for imitation. And permit us to add, sir, that it is not among the least of our consolations that you, who have been his companion and friend from the dawning of our national existence, and trained in the same school of exertion to effect our independence, are still preserved by a gracious Providence in health and activity to exercise the functions of Chief Magistrate.

The question whether the legal powers over the District of Columbia, vested by the Constitution in the Congress of the United States, shall be immediately exercised, is of great importance, and in deliberating upon it, we shall naturally be led to weigh the attending circumstances and every probable consequence of the measures which may be proposed.

The several subjects for Legislative consideration, contained in your Speech to both Houses of Congress, shall receive from the Senate all the attention which they can give, when contemplating those objects, both in respect to their national importance, and the additional weight that is given them by your recommendation.

We deprecate, with you, sir, all spirit of innovation, from whatever quarter it may arise, which may impair the sacred bond that connects the different parts of this empire; and we trust, that, under the protection of Divine Providence, the wisdom and virtue of the citizens of the United States will deliver our national compact unimpaired to a grateful posterity.

From past experience, it is impossible for the Senate of the United States to doubt of our zealous co-operation with the Legislature in every effort to promote the general happiness and tranquillity of the Union.

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DECEMBER, 1800.

Accept, sir, our warmest wishes for your health and happiness.

JOHN E. HOWARD,
President of the Senate, pro tempore.

Resolved, That a committee be appointed to wait on the President of the United States, and desire him to acquaint the Senate at what time and place it will be convenient for him that the Address of the Senate, in answer to his Speech to both Houses of Congress at the opening of the session, shall be presented; and that Messrs. TRACY, MORRIS, and BALDWIN, be this committee.

A message from the House of Representatives informed the Senate that the House have resolved, that two Chaplains be appointed to Congress, for the present session, one by each House, to interchange weekly; in which they desire the concurrence of the Senate.

The Senate took into consideration the resolution last mentioned; and,

Resolved, That they do concur therein with the following amendment: after the word "Chaplains," insert "of different denominations."

WEDNESDAY, November 26.

Mr. TRACY reported, from the committee yesterday appointed for the purpose, that they had waited on the President of the United States, and that he would receive the Address of the Senate this day, at 12 o'clock, at his own house.

Whereupon, the Senate waited on the President of the United States accordingly: and the President of the Senate, in their name, presented the Address yesterday agreed to.

To which the PRESIDENT made the following reply:

Mr. President and Gentlemen of the Senate:

For this excellent Address, so respectful to the memory of my illustrious predecessor, which I receive from the Senate of the United States, at this time, and in this place, with peculiar satisfaction, I pray you to accept of my unfeigned acknowledgments. With you, I ardently hope, that permanence and stability will be communicated as well to the Government itself, as to its beautiful and commodious seat. With you I deplore the death of that hero and sage who bore so honorable and efficient a part in the establishment of both. Great indeed would have been my gratification, if his sum of earthly happiness had been completed by seeing the Government thus peaceably convened at this place, himself at its head. But, while we submit to the decision of Heaven, whose councils are inscrutable to us, we cannot but hope, that the members of Congress, the officers of Government, and all who inhabit the city or the country, will retain his virtues in lively recollection, and make his patriotism, morals, and piety, models for imitation.

I thank you, gentlemen, for your assurance that the several subjects for legislative consideration, recommended in my communication to both Houses, shall receive from the Senate a deliberate and candid attention.

With you, gentlemen, I sincerely deprecate all spirit of innovation which may weaken the sacred bond that connects the different parts of this nation and Government; and with you I trust, that, under the protection

of Divine Providence, the wisdom and virtue of our citizens will deliver our national compact unimpaired to a free, prosperous, happy and grateful posterity. To this end it is my fervent prayer, that, in this city, the fountains of wisdom may be always open, and the streams of eloquence forever flow. Here may the youth of this extensive country forever look up without disappointment, not only to the monuments and memorials of the dead, but to the examples of the living, in the members of Congress and officers of Government, for finished models of all those virtues, graces, talents, and accomplishments, which constitute the dignity of human nature, and lay the only foundation for the prosperity or duration of empires.

JOHN ADAMS.

CITY OF WASHINGTON Nov. 26, 1800.

The Senate returned to their own Chamber; and, the reply of the President of the United States having been read, adjourned.

THURSDAY, November 27.

A message from the House of Representatives informed the Senate that the House agree to the amendment of the Senate to the resolution for the appointment of Chaplains to Congress for the present session. Whereupon,

The Senate proceeded to the appointment of a Chaplain to Congress on their part, and the Right Reverend Bishop CLAGGETT was elected.

FRIDAY, November 28.

THOMAS JEFFERSON, Vice President of the United States, and President of the Senate, attended.

The VICE PRESIDENT laid before the Senate a report from the Commissioners of the Sinking Fund; which was read, and ordered to be printed for the use of the Senate.

A message from the House of Representatives informed the Senate that the House have elected the Rev. THOMAS LYELL, a Chaplain to Congress, on their part, for the present session.

MONDAY, December 1.

JESSE FRANKLIN, from the State of North Carolina, attended.

The VICE PRESIDENT communicated a letter from JAMES LLOYD, a Senator from the State of Maryland, resigning his seat in the Senate; which was read, and

Resolved, That the VICE PRESIDENT be requested to notify the Executive of the State of Maryland of this resignation.

TUESDAY, December 2.

JACOB READ, from the State of South Carolina, and JAMES GUNN, from the State of Georgia, severally attended.

A message from the House of Representatives informed the Senate that the House have passed a bill to authorize the Delegate from the Territory Northwest of the Ohio to frank letters, and making provision for his compensation, in which they desire the concurrence of the Senate.

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The bill was read and passed to the second reading.

WEDNESDAY, December 3.

The bill extending to the Delegate from the Territory Northwest of the Ohio the privilege of franking letters, was read the second time, and committed to MESSRS TRACY, ANDERSON, and READ, to consider and report thereon.

THURSDAY, December 4.

RAY GREENE, from the State of Rhode Island, and ELIJAH PAINE, from the State of Vermont, severally attended.

The VICE PRESIDENT communicated a note from the Commissioners of the Federal Buildings, with a plan of the City of Washington, for the inspection of the Senate.

On motion, that so much of the Speech of the President of the United States, as relates to the exercise of the local powers over the District of Columbia, vested by the Constitution in the Congress of the United States, be referred to a select committee, and that they be authorized to report by bill or otherwise, it was agreed, that the motion should lie on the table.

FRIDAY, December 5.

Mr. TRACY, from the committee to whom was referred the bill, entitled "An act extending the privilege of franking letters to the Delegate from the Territory of the United States Northwest of the river Ohio, and making provision for his compensation," reported an amendment; which being agreed to and the rule dispensed with,

Resolved, That this bill pass with an amendment.

The Senate took into consideration the motion made yesterday, for the appointment of a committee on that part of the Speech of the President of the United States, which relates to the exercise of the local powers over the District of Columbia; and the motion was adopted, and Messrs CHIPMAN, DAYTON, and MORRIS, were appointed the committee.

MONDAY, December 8.

The VICE PRESIDENT communicated a letter from the Treasurer of the United States, with his accounts, as follow: His general account ending 31st March and 30th June; War ditto, 30th June and 30th September; Navy ditto, 30th June and 30th September; which were read, and ordered to lie on the table.

Mr. ANDERSON presented the petition of Paul McDermott, praying Congress to authorize the settlement of his accounts, as paymaster to a part of the troops who served in the year 1794, against the insurgents, the loss of his vouchers notwithstanding; and the petition was read.

Ordered, That it be referred to Messrs ANDERSON, TRACY, and D. FOSTER, to consider and report thereon.

Mr. ANDERSON, also, presented the petition of Shadrach Inman, praying compensation for property stated to have been taken from him for public service, in the State of North Carolina, in the year 1780; and the petition was read, and referred to Messrs. ANDERSON, D. FOSTER, and TRACY, to consider and report thereon.

TUESDAY, December 9.

The VICE PRESIDENT communicated a note from the Commissioners of the city of Washington, with a plan thereof, for the members of the Senate, respectively.

WEDNESDAY, December 10.

A message from the House of Representatives informed the Senate that they have appointed a committee, on their part, for enrolled bills, and desire the appointment of a committee on the part of the Senate.

Ordered, That Mr. D. FOSTER be the committee for enrolled bills, on the part of the Senate.

THURSDAY, December 11.

Mr. LANGDON presented the memorial of Peter Charles L'Enfant, Major of Engineers, in the Revolutionary war, stating his services in planning the city of Washington, and supervising the public buildings, and praying compensation; and the petition was read and ordered to lie on the table.

FRIDAY, December 12.

The VICE PRESIDENT laid before the Senate a report from the Secretary for the Department of State, in pursuance of the "Act to revive and continue in force certain parts of the act for the relief and protection of American seamen, and to amend the same;" and the report was read, and ordered to lie for consideration, and that in the mean time it be printed for the use of the Senate.

MONDAY, December 15.

WILLIAM HINDMAN, appointed a Senator by the Legislature of the State of Maryland, for the remainder of the term for which James Lloyd was elected, produced his credentials, was qualified, and took his seat in the Senate.

TUESDAY, December 16.

A message from the House of Representatives informed the Senate that the House have passed a bill for the relief of Robert Hooper, in which they desire the concurrence of the Senate.

The bill was read and passed to a second reading.

WEDNESDAY, December 17.

The bill for the relief of Robert Hooper was read the second time and referred to Messrs. D. FOSTER, LANGDON, and TRACY, to consider and report thereon.

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Ordered, That the Doorkeeper of the Senate be directed to procure and put up two stoves, with suitable apparatus, in the Senate Chamber, and that the expense be defrayed out of the contingent fund.

Mr. CHIPMAN, from the committee to whom the subject was referred, on the 5th instant, reported a bill concerning the District of Columbia; which was read, and ordered to the second reading.

THURSDAY, December 18.

The bill concerning the District of Columbia was read the second time, and the consideration thereof postponed.

Mr. ANDERSON presented the petition of John Pitchlyn, by his attorney, Anthony Foster, praying compensation as an interpreter to the Choctaw nation of Indians; and the petition was read and referred to Messrs. ANDERSON, D. FOSTER, and BROWN, to consider and report thereon.

FRIDAY, December 19.

JONATHAN MASON, appointed a Senator by the Legislature of the State of Massachusetts, in place of BENJAMIN GOODHUE, resigned, produced his credentials, was qualified and took his seat in the Senate.

MONDAY, December 22.

The Senate proceeded to the consideration of Executive business.

TUESDAY, December 23.

A message from the House of Representatives informed the Senate that the House have passed a resolution for the adjournment of the two Houses of Congress, until Tuesday, the 30th instant, in which they desire the concurrence of the Senate.

The resolution was read, and it was *Resolved* That the Senate concur therein.

The Senate adjourned to Tuesday, 30th inst.

TUESDAY, December 30.

The VICE PRESIDENT communicated a report from the Secretary for the Department of War, on the claims of certain Canadian refugees, which was read and ordered to lie on the table.

Ordered, That the acts of cession by the States of Maryland and Virginia, to the United States, of the District of Columbia, together with the act of Congress accepting the same, be printed for the use of the Senate.

WEDNESDAY, December 31.

Mr. BALDWIN presented an address and remonstrance of the Legislature of the State of Georgia, stating certain grievances resulting from the operations of the law passed the 9th day of April, 1798; and the remonstrance was read.

THURSDAY, January 1, 1801.

The Senate assembled, but transacted no business to-day, and adjourned to Monday morning.

MONDAY, January 5.

A message from the House of Representatives formed the Senate that the House have passed a bill, entitled "An act to erect a mausoleum for GEORGE WASHINGTON," in which they desire the concurrence of the Senate.

The bill was read and ordered to a second reading.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and
Gentlemen of the House of Representatives:*

I transmit to both Houses of Congress, for their information and consideration, copies of laws enacted by the Governor and Judges of the Mississippi Territory, from the 30th of June until the 31st of December, A. D. 1799.

JOHN ADAMS.

UNITED STATES, Jan. 1, 1801.

The Message was read and ordered to lie for consideration.

The Senate resumed the second reading of the bill concerning the District of Columbia, and, after debate, the further consideration thereof was postponed until to-morrow.

TUESDAY, January 6.

The bill to erect a mausoleum for GEORGE WASHINGTON was read the second time, and referred to Messrs. NICHOLAS, D. FOSTER, and TRACY, to consider and report thereon.

WEDNESDAY, January 7.

The Senate took into consideration the report of the committee to whom was referred so much of the President's Speech as relates to the exercise of the local powers over the District of Columbia, vested by the Constitution in the Congress of the United States; which is,

"That, by the cession of the several States of Virginia and Maryland, and the acceptance thereof by Congress, the said District has become the permanent Seat of the Government of the United States.

"That the powers of the said States to legislate within said District have wholly ceased;

"And that the sole power of legislation over the same is thereupon exclusively vested in Congress."

And, on motion to agree thereto, a motion was made for the previous question, to wit: "Shall the main question be now put?" and which passed in the negative.

The Senate resumed the second reading of the bill concerning the District of Columbia; and, after debate,

Ordered, That it be recommended to the original committee, further to consider and report thereon.

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THURSDAY, January 8.

JOHN ARMSTRONG, appointed a Senator by the Legislature of the State of New York, in place of John Laurance resigned, produced his credentials, was qualified, and took his seat in the Senate.

FRIDAY, January 9.

The Senate proceeded to the consideration of Executive business.

MONDAY, January 12.

WILLIAM BINGHAM and JAMES ROSS, from the State of Pennsylvania, severally attended.

The Senate then proceeded to the consideration of Executive business.

TUESDAY, January 13.

The Senate proceeded to the consideration of Executive business.

WEDNESDAY, January 14.

A message from the House of Representatives informed the Senate that the House have passed a resolution that the Senate be notified that the funeral of JAMES JONES, a member of their House, who died yesterday, will be attended this day at 12 o'clock.

The resolution was read: and, on motion,

Resolved, That the Senate will attend the funeral of JAMES JONES, late a member of the House of Representatives of the United States, this day at 12 o'clock.

THURSDAY, January 15.

Mr. NICHOLAS, from the committee on the bill to erect a mausoleum for GEORGE WASHINGTON, reported amendments; which were read, and ordered to lie for consideration.

FRIDAY, January 16.

Mr. D. FOSTER, from the committee to whom was referred the bill for the relief of Robert Hooper, reported it without amendment.

Ordered, That the consideration thereof be postponed.

MONDAY, January 19.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

I now transmit to both Houses of Congress, in conformity to law, my annual account of the application of grants for the contingent charges of Government for the year one thousand eight hundred.

JOHN ADAMS.

UNITED STATES, Jan. 16, 1801.

The Message was read, and ordered to lie on the table.

The Senate resumed the second reading of the bill, entitled "An act for the relief of Robert

Hooper;" and, on the question to agree to the third reading thereof, it passed in the negative. So the bill was lost.

TUESDAY, January 20.

The Senate proceeded to the consideration of Executive business.

WEDNESDAY, January 21.

The VICE PRESIDENT communicated a letter from the Commissioners of the City of Washington, addressed to both Houses of Congress, requesting the assignment of a room in the Capitol for the temporary accommodation of the Supreme Judicial Court of the United States; which was read.

Resolved, That the Secretary be directed to inform the Commissioners of the City of Washington that the Senate consent to the accommodation of the Supreme Court in one of the committee rooms, as proposed in their letter.

A message from the House of Representatives informed the Senate that the House have passed a bill for the more convenient organization of the Courts of the United States; a bill for the erection and support of a light-house on Cape Poge; a bill for the relief of Solomon Boston; and a bill to continue the acts laying duties on wines, spirits, and refined sugar, and property sold at auction, and on carriages; in which bills they desire the concurrence of the Senate.

The bills were read, and severally passed to the second reading.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

I have received from Elias Boudinot, Esq., Director of the Mint of the United States, a report of the second of January instant, respecting the state of it, together with an abstract of the coins struck at the Mint from the first of January to the thirty-first of December, 1800; an abstract of the expenditures of the Mint from the first of January to the thirty-first of December, inclusive; a statement of gain on copper coined at the Mint from the first of January, to the 31st of December, 1800, inclusive; and a certificate from Joseph Richardson, Assayer of the Mint, ascertaining the value of Spanish milled dollars in proportion to the gold coins of the United States to be no more than 84 cents and 424-500 parts of a cent, for one pennyweight, or 28 grains and 24-84: 256-848 parts of a grain, to one dollar. These papers I transmit to Congress for their consideration.

JOHN ADAMS.

UNITED STATES, Jan. 17, 1801.

The Message and papers were read and ordered to lie on the table.

THURSDAY, January 22.

The bill for the erection and support of a light-house on Cape Poge was read the second time, and referred to Messrs. D. FOSTER, LANGDON, and BALDWIN, to consider and report thereon.

The bill to continue the acts laying duties on

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wines, spirits, and refined sugar; on property sold at auction, and carriages, was read the second time, and referred to Messrs. DAYTON, BALDWIN, and TRACY, to consider and report thereon.

The bill for the relief of Solomon Boston was read the second time, and referred to Messrs. WELLS, HOWARD, and LATIMER, to consider and report thereon.

The bill for the more convenient organization of the Courts of the United States, was read the second time, and referred to Messrs. HILLHOUSE, READ, ROSS, CHIPMAN, and J. MASON, to consider and report thereon.

The Senate resumed the consideration of the report of the committee on the bill to erect a mausoleum for GEORGE WASHINGTON; and on motion to agree to the report, and to strike out, after the word "That," immediately following the enacting clause, the whole of the bill, for the purpose of inserting as follows:

"In testimony of the respect and gratitude of the citizens of the United States to GEORGE WASHINGTON, and for carrying into effect the resolution of Congress of the 24th day of December, 1799, to commemorate the great events of his military and political life, there shall be and hereby is appropriated a sum not exceeding — thousand dollars, to be paid out of any moneys in the Treasury of the United States, not otherwise appropriated.

"And be it further enacted, That — — shall be, and hereby are, empowered, to fix on a plan and make all contracts and engagements for payment of moneys, not exceeding in the whole the aforesaid sum of — dollars; and to adopt all other measures necessary and proper for the due execution of this act, as to them shall seem expedient."

And it was agreed to divide the motion, and that the question be taken on striking out, which passed in the affirmative—yeas 16, nays 12, as follows:

YEAS—Messrs. Anderson, Armstrong, Baldwin, Bloodworth, Brown, Cocke, Dayton, T. Foster, D. Foster, Franklin, Hillhouse, Langdon, Marshall, S. T. Mason, Nicholas, and Schureman.

NAYS—Messrs. Chipman, Greene, Hindman, Howard, Latimer, Livermore, J. Mason, Morris, Paine, Read, Tracy, and Wells.

FRIDAY, January 23.

Mr. DAYTON presented the petition of the counties of Randolph and St. Clair, in the Indiana Territory, praying Congress to pass some regulations in regard to the gradual abolition of slavery; the extinction of certain Indian titles; the establishing of garrisons; and opening roads and houses of entertainment for the accommodation of travelers to the seat of Government; and the petition was read and ordered to lie on the table.

A message from the House of Representatives informed the Senate that the House have passed a resolution for the appointment of a committee, on their part, with such as may be appointed on the part of the Senate, to ascertain and report a mode of examining the votes for President and Vice President, and of notifying the persons who shall be elected of their election; and to regulate

the time, place, and manner, of administering the oath of office to the President; in which they desire the concurrence of the Senate.

The message was read, and ordered to lie on the table.

MONDAY, January 26.

The Senate resumed the second reading of the bill for erecting a mausoleum for GEORGE WASHINGTON; and having agreed to the amendment reported by the committee, and filled up one of the blanks,

Ordered, That this bill pass to third reading as amended.

THURSDAY, January 27.

Mr. WELLS, from the committee on the bill for the relief of Solomon Boston, reported it without amendment; and it was agreed that the bill be read the third time.

The Senate took into consideration the resolution of the House of Representatives of the 23d instant, for the appointment of a joint committee, to ascertain and report the mode of examining the votes for President and Vice President of the United States; and

Resolved, That they do concur therein, and that Messrs. MORRIS, TRACY, and BINGHAM, be the committee on the part of the Senate.

The bill for erecting a mausoleum for GEORGE WASHINGTON was read the third time; and, on motion to amend the bill, it was agreed that the bill and amendment be referred to Messrs. BINGHAM, DAYTON, and HILLHOUSE, to consider and report thereon.

WEDNESDAY, January 28.

The bill, sent from the House of Representatives, entitled "An act for the relief of Solomon Boston," was read the third time and passed.

Mr. D. FOSTER, from the committee on the bill sent from the House of Representatives, entitled "An act to provide for the erection and support of a light-house on Cape Poge, at the northeasterly part of Martha's Vineyard," reported it without amendment; and the report was adopted, and the bill was read the third time by unanimous consent, and passed.

THURSDAY, January 29.

A message from the House of Representatives informed the Senate that the House have passed a bill to discharge Samuel Lewis, senior, from his imprisonment; a bill regulating the grants of land for the refugees from the British provinces of Canada and Nova Scotia; and a bill to allow the transportation of goods to and from Philadelphia and Baltimore, by the way of Appoquinimink and Sasafra; in which bills they desire the concurrence of the Senate.

The bills last sent up for concurrence were read, and severally passed to the second reading.

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Mr. CHIPMAN, from the committee to whom was recommitted the bill concerning the District of Columbia, reported amendments.

Mr. HILLHOUSE, from the committee on the bill for the more convenient organization of the Courts of the United States, reported it without amendment.

Ordered, That the further consideration of this bill be postponed until Tuesday next.

FRIDAY, January 30.

The bill regulating the grants of land for the refugees from the British provinces of Canada and Nova Scotia, was read the second time, and referred to Messrs. BROWN, MARSHALL, and PAINE, to consider and report thereon.

The bill to allow the transportation of goods to and from Philadelphia, and Baltimore, by the way of Appoquinimink and Sassafras, was read the second time, and referred to Messrs. BINGHAM, WELLS, and HOWARD, to consider and report thereon.

The bill to discharge Samuel Lewis, senior, from his imprisonment, was read the second time, and referred to Messrs. GREENE, TRACY, and BALDWIN, to consider and report thereon.

Mr. BINGHAM, from the committee on the bill and amendment thereto, for erecting a mausoleum for GEORGE WASHINGTON, reported a further amendment; which was read.

Mr. ANDERSON presented the petition of Daniel Brent, and the other clerks in the Departments of State, Treasury, War, and Navy; also, of the clerks in the office of the Postmaster General; stating the inadequacy of their compensations, respectively, to their necessary expenses, and praying an additional allowance; and the petition was read, and referred to Messrs. ANDERSON, HILLHOUSE, and GREENE, to consider and report thereon.

The Senate took into consideration the amendments reported by the committee, to whom was recommitted the bill concerning the District of Columbia, and, after debate, the further consideration thereof was postponed.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

I transmit to Congress, for their consideration, a letter from William Thornton, Alexander White, and William Cranch, Esquires, Commissioners of the city of Washington, with a representation of the affairs of the city, made by them to the President of the United States, dated the 28th of January, 1801, accompanied with a series of documents marked from A to H, inclusively.

JOHN ADAMS.

UNITED STATES, Jan. 30, 1801.

The Message and papers therein referred to were read, and ordered to lie on the table.

MONDAY, February 2.

The Senate resumed the consideration of the amendments reported by the committee to whom was recommitted the bill concerning the District of Columbia; and, after debate,

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Ordered, That they be recommitted to the original committee, further to consider and report thereon.

Mr. GREENE presented the petition of Nathaniel Waldron, and others, ship owners and merchants of Bristol, in the district of Rhode Island, praying that the ports of Bristol, Warren, and Barrington, and the waters around them, may be erected into an independent district; and the petition was read, and ordered to lie on the table.

Mr. TRACY presented the petition of Joseph Nourse, Register of the Treasury of the United States, praying allowance of a commission as agent for defraying the incidental and contingent expenses of the Treasury Department; which was read.

TUESDAY, February 3.

The Senate took into consideration the petition of Joseph Nourse, Register of the Treasury, presented yesterday; and,

Ordered, That it be referred to Messrs. TRACY, ROSS, and PAINE, to consider and report thereon.

A message from the House of Representatives informed the Senate that the House have passed a bill to incorporate a mine and metal company; and a bill making the ports of Biddeford and Pepperelborough, and New Bedford, in Massachusetts, ports of entry for ships arriving from the Cape of Good Hope, and places beyond the same; in which they desire the concurrence of the Senate.

WEDNESDAY, February 4.

The two bills yesterday sent up from the House of Representatives, for concurrence, were read, and severally passed to the second reading.

Mr. CHIPMAN, from the committee to whom was recommitted the bill concerning the District of Columbia, reported further amendments, which were read, agreed to, and the bill passed to the third reading as amended.

The Senate took into consideration the amendment reported by the committee, on the bill for erecting a mausoleum for GEORGE WASHINGTON; which was agreed to.

And on the final passage of the bill as amended, the question was determined in the affirmative—yeas 20, nays 9, as follows:

YEAS—Messrs. Anderson, Armstrong, Baldwin, Bloodworth, Brown, Chipman, Dayton, T. Foster, Dwight Foster, Franklin, Greene, Hillhouse, Howard, Langdon, Livermore, Marshall, S. T. Mason, Nicholas, Paine, and Schureman.

NAYS—Messrs. Bingham, Cocke, Gunn, Hindman, Latimer, J. Mason, Morris, Read, and Ross.

So it was, *Resolved*, That this bill pass with amendments.

The Senate resumed the second reading of the bill for the more convenient organization of the Courts of the United States; and, after progress, the further consideration thereof was postponed, and the Senate adjourned.

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THURSDAY, February 5.

The bill making the ports of Biddeford and Pepperelborough, and New Bedford, in Massachusetts, ports of entry for ships arriving from the Cape of Good Hope, and places beyond the same, was read the second time and referred to Messrs. DWIGHT FOSTER, LANGDON, and J. MASON, to consider and report thereon.

Ordered, That the petition of Nathaniel Waldron and others, ship owners and merchants of Bristol, in the district of Rhode Island, be also referred to the same committee, who are empowered to report by bill or otherwise.

The bill to incorporate a mine and metal company was read the second time, and referred to Messrs. TRACY, ROSS, and MORRIS, to consider and report thereon.

The bill concerning the District of Columbia was read the third time.

Resolved, That this bill pass, that it be engrossed, and that the title thereof be "An act concerning the District of Columbia."

The Senate resumed the second reading of the bill providing for the more convenient organization of the Courts of the United States.

On motion to strike out of section 41, line 5th, the following words:

"Except the Judges of the sixth circuit, who shall be allowed the sum of fifteen hundred dollars each, to be paid in like manner; and that the salaries of the district Judges of Kentucky and Tennessee shall be, and hereby are, severally augmented to the like sum of fifteen hundred dollars annually, to be paid in like manner."

It passed in the negative—yeas 12, nays 17, as follows:

YEAS—Messrs. Anderson, Armstrong, Baldwin, Bloodworth, Brown, Cocke, Dwight Foster, Franklin, Hillhouse, Langdon, Marshall, and Nicholas.

NAYS—Messrs. Bingham, Chipman, Dayton, Greene, Gunn, Hindman, Howard, Latimer, Livermore, J. Mason, Morris, Paine, Read, Ross, Schureman, Tracy, and Wells.

FRIDAY, February 6.

A message from the House of Representatives informed the Senate that the House have passed a bill giving a right of pre-emption to certain persons who have contracted with John Cleves Symmes; and a bill to add to the district of Massac, on the Ohio, and amend the act to regulate the collection of duties on imports and tonnage; in which they desire the concurrence of the Senate.

The bills were read, and severally passed to the second reading.

The Senate resumed the second reading of the bill providing for the more convenient organization of the Courts of the United States.

On motion to strike out of the 7th section, line 48th, the following words: "twenty-fifth day of March and twenty-fifth day of September," for the purpose of inserting "twenty-fifth day of April and twenty-fifth day of October:" it passed in the negative—yeas 14, nays 16, as follows:

YEAS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, T. Foster, Dwight Foster, Franklin, Greene, Hillhouse, Langdon, Livermore, S. T. Mason, and Nicholas.

NAYS—Messrs. Bingham, Chipman, Dayton, Gunn, Hindman, Howard, Latimer, Marshall, J. Mason, Morris, Paine, Read, Ross, Schureman, and Wells.

On motion to amend the 41st section, and to strike out the provision for the compensation to the circuit Judges "\$2,000," and to insert "\$1,500:" it was agreed to divide the question, and that it be taken on striking out; and which passed in the negative—yeas 13, nays 16, as follows:

YEAS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, T. Foster, D. Foster, Franklin, Hillhouse, Langdon, Livermore, S. T. Mason, and Nicholas.

NAYS—Messrs. Bingham, Chipman, Dayton, Greene, Gunn, Hindman, Howard, Latimer, Marshall, J. Mason, Morris, Paine, Read, Ross, Tracy and Wells.

On motion to strike out the whole of the bill after the words "from and after the" section first, line second, for the purpose of inserting as follows:

"Passing of this act, there shall be four circuits in the United States; the first to consist of the district of Maine, the district of New Hampshire, the district of Massachusetts, and the district of Rhode Island; the second to consist of the district of Connecticut, the district of Vermont, the district of New York, and the district of New Jersey; the third to consist of the district of Pennsylvania, the district of Delaware, the district of Maryland, and the district of Virginia; the fourth of the district of North Carolina, the district of South Carolina, and the district of Georgia.

"The Supreme Court of the United States shall consist of the Chief Justice and seven Associate Justices, any six of whom shall constitute a quorum.

"That the Chief Justice and Associate Justices shall allot themselves among the said circuits as they shall think fit, so that there be not more than two allotted to any one circuit, and shall enter such allotment on record, to be hereafter binding; and, in case no such allotment shall be made by themselves, it shall and may be lawful for the President of the United States to make an allotment, as to him shall seem proper, so that no more than two be allotted to any one circuit, and that in all appointments hereafter to be made of a Chief Justice, or Associate Justice, it shall be said to which circuit they shall belong, and such appointments shall be made so as to allot to each circuit two Justices.

"That it shall not be necessary for more than one of the Justices allotted to any circuit to attend the sitting of the courts within such circuit unless the Supreme Court for special cause shall direct the same; or unless in the preceding term the court shall have been divided on the final hearing of a cause, or on a plea to the jurisdiction, in either of which cases it shall be the duty of both the Justices allotted to a circuit to attend, on notice of such division being given to the Justice who was not present.

"That, from and after the present session of the Supreme Court of the United States, the said court shall be holden by the Justices thereof, or any six of them, at the city of Washington, on the first Monday of December in each and every year thereafter; and that if six of the said Justices shall not attend within ten days after the time hereby appointed for the commencement of the said session, the business of the said court shall be continued over till the next stated session thereof.

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"That it shall be the duty of the Chief Justice, or one of the Associate Justices, (to be allotted for that purpose at the preceding session of the Supreme Court,) to attend at the city of Washington, on the — day of —, who shall have power to make all necessary orders, touching any suit, action, appeal, writ of error, process, pleadings, or proceedings, returned to the said court, or depending therein, preparatory to the hearing, trial, or decision, of such action, suit, appeal, writ of error, process, pleadings, or proceedings."

And, on the question to agree to this motion, it passed in the negative—yeas 13, nays 17, as follows:

YEAS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, T. Foster, D. Foster, Franklin, Hillhouse, Langdon, Livermore, S. T. Mason, and Nicholas.

NAYS—Messrs. Bingham, Chipman, Dayton, Greene, Gunn, Hindman, Howard, Latimer, Marshall, J. Mason, Morris, Paine, Read, Ross, Schureman, Tracy, and Wells.

On the question to agree to the third reading of the bill as amended, it passed in the affirmative—yeas 18, nays 12, as follows:

YEAS—Messrs. Bingham, Chipman, Dayton, Greene, Gunn, Hindman, Howard, Latimer, Livermore, Marshall, J. Mason, Morris, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAYS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, T. Foster, D. Foster, Franklin, Hillhouse, Langdon, S. T. Mason, and Nicholas.

The bill first brought up this day for concurrence was again read by unanimous consent, and referred to Messrs. BROWN, ROSS, and PAINE, to consider and report thereon.

The other bill brought up this day for concurrence was again read by unanimous consent, and referred to Messrs. BROWN, ANDERSON, and MARSHALL, to consider and report thereon.

The VICE PRESIDENT laid before the Senate a letter from the Treasurer of the United States, with his general account ending the 30th of September, 1800; and the letter was read.

The VICE PRESIDENT also laid before the Senate a letter from Samuel Dexter, Secretary for the Department of the Treasury, with a statement of goods, wares, and merchandise, exported from the United States during one year from the 1st of October, 1800.

The letter was read; and, after the consideration of Executive business,

The Senate adjourned.

SATURDAY, February 7.

The bill entitled "An act to provide for the more convenient organization of the Courts of the United States," was read the third time.

On motion, to amend the seventh section of the bill, line 50, by striking out "Bairdstown," and inserting "Frankfort," in lieu thereof, it passed in the negative—yeas 9, nays 14, as follows:

YEAS—Messrs. Anderson, Baldwin, Brown, Cocke, D. Foster, Franklin, Langdon, Marshall, and Nicholas.

NAYS—Messrs. Bingham, Chipman, Dayton, Greene, Hindman, Howard, Latimer, J. Mason, Morris, Read, Ross, Schureman, Tracy, and Wells.

On motion, the amendment agreed to in the second reading of the bill was struck out; and, on the final passage of the bill, the question was determined in the affirmative—yeas 16, nays 11, as follows:

YEAS—Messrs. Bingham, Chipman, Dayton, Greene, Gunn, Hindman, Howard, Latimer, Marshall, J. Mason, Morris, Read, Ross, Schureman, Tracy, and Wells.

NAYS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, T. Foster, Franklin, Hillhouse, Langdon, S. T. Mason, and Nicholas.

So it was resolved that this bill pass.

Mr. BROWN, from the committee on the bill making appropriations of land for the refugees from the British provinces of Canada and Nova Scotia, reported an amendment; which was read, and ordered to lie for consideration.

The Senate adjourned.

MONDAY, February 9.

Mr. DWIGHT FOSTER, from the committee on the bill making the ports of Biddeford and Pepperelborough, and New Bedford, in Massachusetts, ports of entry for ships arriving from the Cape of Good Hope, and places beyond the same, reported the bill without amendment.

Mr. MORRIS, from the joint committee, appointed the 27th of January last, to ascertain and report the mode of examining the votes for President and Vice President of the United States, reported that the committee could come to no agreement.

A motion was made that it be

"Resolved, That, from and after the last day of March next, the towns of Kittery and Berwick, in the State of Massachusetts, shall be annexed to the district of Portsmouth, in New Hampshire, as ports of delivery only; provided that nothing herein contained shall be construed to prevent the master or commander of any ship or vessel having merchandise on board, destined for either of the said places, from making entry at his option with the collector of the district of New York, and obtaining permits for the delivery thereof as heretofore."

And it was agreed that this motion be referred to the committee, appointed on the 5th instant, on the bill respecting the ports of Biddeford and Pepperelborough, to report by bill or otherwise.

On motion, it was

Resolved, That the Senate will be ready to receive the House of Representatives in the Senate Chamber on Wednesday next, at twelve o'clock, for the purpose of being present at the opening and counting the votes for President of the United States. That one person be appointed a teller on the part of the Senate, to make a list of the votes for President of the United States, as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce the state of the vote, which shall be entered on the Journals, and if it shall appear that a choice has been made, agreeably to the Constitution, such entry on the Journals shall be deemed a sufficient declaration thereof.

Ordered, That the Secretary notify the House of Representatives of this resolution.

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TUESDAY, February 10.

On motion that when the two Houses shall proceed to opening and counting the votes for President of the United States, no person shall be admitted into the gallery, it passed in the affirmative—yeas 16, nays 10, as follows:

YEAS—Messrs. Brown, Chipman, Dayton, T. Foster, Dwight Foster, Hillhouse, Hindman, Latimer, J. Mason, Morris, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAYS—Messrs. Anderson, Baldwin, Bloodworth, Cocke, Franklin, Langdon, Livermore, Marshall, S. T. Mason, and Nicholas.

A message was received from the House of Representatives informing the Senate that they have passed a resolution, which the Clerk was directed to bring to the Senate.

The resolution was read, as follows:

“Resolved, That this House will attend in the Chamber of the Senate on Wednesday next, at 12 o'clock, for the purpose of being present at the opening and counting of the votes for President and Vice President of the United States; that Messrs. RUTLEDGE and NICHOLAS be appointed tellers, to act jointly with the teller appointed on the part of the Senate, to make a list of the votes for President and Vice President of the United States, as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce the state of the vote, which shall be entered on the Journals, and if it shall appear that a choice has been made, agreeably to the Constitution, such entry on the Journals shall be deemed a sufficient declaration thereof.”

Ordered, That Mr. WELLS be a teller on the part of the Senate for the purpose expressed in the above resolution.

The Senate resumed the consideration of the report of the committee on the bill making the ports of Biddeford, and Pepperelborough, and New Bedford, in the State of Massachusetts, ports of entry, for ships arriving from the Cape of Good Hope, and places beyond the same; and, having agreed to the report, the bill was ordered to the third reading.

The Senate took into consideration the amendment reported by the committee on the bill making appropriation of lands for the refugees from the British provinces of Canada and Nova Scotia; and the report was disagreed to.

Ordered, That the bill pass to the third reading.

WEDNESDAY, February 11.

Ordered, That the Secretary notify the House of Representatives that the Senate is ready to meet them in the Senate Chamber, for the purpose of being present at the opening and counting the votes for President of the United States.

The two Houses of Congress accordingly assembled in the Senate Chamber, and the certificates of the Electors of sixteen States were, by the VICE PRESIDENT, opened and delivered to the tellers appointed for the purpose, who, having examined and ascertained the number of votes, presented a list thereof to the VICE PRESIDENT, which was read, as follows:

STATES.	Thomas Jefferson.	Aaron Burr.	John Adams.	Charles C. Pinckney.	John Jay.
New Hampshire -	-	-	6	6	
Massachusetts -	-	-	16	16	
Rhode Island -	-	-	4	3	1
Connecticut -	-	-	9	9	
Vermont -	-	-	4	4	
New York -	12	12			
New Jersey -	-	-	7	7	
Pennsylvania -	8	8	7	7	
Delaware -	-	-	3	3	
Maryland -	5	5	5	5	
Virginia -	21	21			
Kentucky -	4	4			
North Carolina -	8	8	4	4	
Tennessee -	3	3			
South Carolina -	8	8			
Georgia -	4	4			
	73	73	65	64	1

Whereupon, the VICE PRESIDENT declared that the result of the votes, as delivered by the tellers, was that

THOMAS JEFFERSON, of Va., had - 73
 AARON BURR, of N. Y., had - - 73
 JOHN ADAMS, of Mass., had - - 65
 CHAS. C. PINCKNEY, of S. C., had - 64
 JOHN JAY, of N. Y., had - - - 1

The whole number of Electors who had voted were one hundred and thirty-eight, of which number THOMAS JEFFERSON and AARON BURR had a majority; but the number of those voting for them being equal, no choice was made by the people; and that, consequently, the remaining duties devolve on the House of Representatives.

On which, the House of Representatives repaired to their own Chamber; and the Senate adjourned.

THURSDAY, February 12.

The bill, entitled “An act making the ports of Biddeford and Pepperelborough, and the port of New Bedford, in Massachusetts, ports of entry for ships or vessels arriving from the Cape of Good Hope, and from places beyond the same,” was read the third time and passed.

The bill, entitled “An act regulating the grants of land appropriated for the refugees from the British provinces of Canada and Nova Scotia,” was read the third time and passed.

FRIDAY, February 13.

The Senate met to-day, but no business was transacted.

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MONDAY, February 16.

The VICE PRESIDENT communicated a letter from Governor Sargent, of the Mississippi Territory, enclosing sundry petitions of the inhabitants thereof, stating certain grievances, particularly from an act passed the last session of Congress, and praying redress; and the letter and papers were read.

Mr. D. FOSTER, from the committee appointed the 5th instant on the petition of Nathaniel Waldron and others, and to whom was also referred, on the 9th instant, a motion respecting the ports of Kittery and Berwick, in the State of Massachusetts, reported a bill, which was read and passed to the second reading.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

I wish to know the pleasure of Congress, and request their direction, concerning the disposition of the property of the United States now in my possession; whether I shall deliver it into the hands of the Heads of Departments, or of the Commissioners of the city of Washington, or of a committee of Congress, or to any other persons Congress may appoint, to be delivered into the hands of my successor, or whether I shall present it myself to the President of the United States on the 4th of March next. Any of these modes will be agreeable to me.

JOHN ADAMS.

UNITED STATES, Feb. 16, 1801.

The Message was read and ordered to lie on the table.

The VICE PRESIDENT communicated a letter from JAMES SCHUREMAN, a Senator from the State of New Jersey, resigning his seat; which was read.

Resolved, That the VICE PRESIDENT be requested to notify the Executive of the State of New Jersey that JAMES SCHUREMAN hath resigned his seat in the Senate.

TUESDAY, February 17.

The bill to establish the district of Bristol, and to annex the towns of Kittery and Berwick to the district of Portsmouth, was read the second time, amended, and passed to the third reading as amended.

Mr. GREENE, from the committee on the bill to discharge Samuel Lewis, senior, from his imprisonment, reported it without amendment; and, after debate, the further consideration thereof was postponed.

WEDNESDAY, February 18.

The Senate resumed the consideration of the report of the committee on the bill to discharge Samuel Lewis, senior, from his imprisonment, and ordered the bill to the third reading.

The bill to establish the district of Bristol, and to annex the towns of Kittery and Berwick to the district of Portsmouth, was read the third time.

Resolved, That this bill pass, that it be engrossed, and that the title thereof be "An act to establish the district of Bristol, and to annex the towns of Kittery and Berwick to the district of Portsmouth."

Ordered, That the Message of the President of the United States, of the 16th instant, relative to the public property in his possession, be referred to Messrs. NICHOLAS, TRACY, and BALDWIN, to consider and report thereon, by bill or otherwise.

A message from the House of Representatives informed the Senate that the House have chosen THOMAS JEFFERSON, of Virginia, President of the United States, for the term commencing on the 4th of March next.

On motion it was

Resolved, That a committee be appointed, to join such committee as may be appointed on the part of the House of Representatives, to consider whether any, and, if any, what, measures ought to be adopted for the further accommodation of the President of the United States, for the term commencing the 4th day of March next, to report by bill, bills, or otherwise; and that Messrs. NICHOLAS, TRACY, and BALDWIN, be the committee on the part of the Senate.

A message from the House of Representatives informed the Senate that the House have passed a bill extending the privilege of franking to JOHN ADAMS, now President of the United States, in which they desire the concurrence of the Senate.

The bill was, by unanimous consent, read the first and second time, and passed to a third reading.

On motion, it was

Resolved, That the President of the United States be requested to cause to be transmitted to AARON BURR, Esq. of New York, Vice President elect of the United States, notification of his election to that office, and that the President of the Senate do make out and sign a certificate, in the words following, viz:

"BE IT KNOWN, That the Senate and House of Representatives of the United States of America, being convened at the city of Washington, on the second Wednesday in February, A. D. 1801, the underwritten, Vice President of the United States and President of the Senate, did, in presence of said Senate and House of Representatives, open all the certificates and count all the votes of the Electors for a President; whereupon it appeared that THOMAS JEFFERSON, of Virginia and AARON BURR, of New York, had a majority of the votes of the Electors, and an equal number of votes; in consequence of which the House of Representatives proceeded to the choice of a President, and have this day notified to the Senate that THOMAS JEFFERSON has by them been duly chosen President: by all of which it appears that AARON BURR, Esq. of New York, is duly elected, agreeably to the Constitution, Vice President of the United States of America.

"In witness thereof I have hereunto set my hand and seal, this 18th day of February, 1801.

"THOMAS JEFFERSON."

And that the President of the Senate do cause the certificate aforesaid to be laid before the President of the United States, with this resolution.

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THURSDAY, February 19.

The bill, entitled "An act to discharge Samuel Lewis, senior, from his imprisonment," was read the third time and passed.

The bill, entitled "An act extending the privilege of franking to JOHN ADAMS, now President of the United States," was read the third time, amended and passed.

FRIDAY, February 20.

A message from the House of Representatives informed the Senate that they have passed a bill making appropriations for the support of Government for the year 1801; a bill making appropriations for the Military Establishment of the United States for the year 1801; a bill to amend the act for the valuation of lands and dwelling-houses; and a bill for the relief of Nathaniel Holmes: in which bills they desire the concurrence of the Senate.

The bill making appropriations for the support of Government for the year 1801 was twice read by unanimous consent, and referred to Messrs. TRACY, DAYTON, and LANGDON, to consider and report thereon.

The bill making appropriations for the Military Establishment for the year 1801, was, by unanimous consent, twice read, and referred to the last mentioned committee, to consider and report thereon.

The bill to amend the act for the valuation of lands and dwelling-houses was twice read, by unanimous consent, and referred to Messrs. ROSS, HILLHOUSE, and NICHOLAS, to consider and report thereon; and

The bill last mentioned in the message was twice read, by unanimous consent, and referred to Messrs. DWIGHT FOSTER, LANGDON, and J. MASON, to consider and report thereon.

Mr. DAYTON, from the committee on the bill to continue the acts laying duties on wines, spirits, and refined sugars, on property sold at auction, and carriages, reported it without amendment, and the bill was ordered to the third reading.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

I transmit to Congress a report received this morning from Elias Boudinot, Esq., Director of the Mint, dated February 13th, 1801, which will require the attention and decision of Congress before the close of the session.

JOHN ADAMS.

UNITED STATES, Feb. 20, 1801.

The Message was read, and ordered to lie on the table.

Mr. GREENE notified the Senate that he would, at a future day, ask leave to bring in a bill for the relief of William Arnold.

Mr. TRACY notified the Senate that he would, at a future day, ask leave to bring in a bill providing that the Secretary of the Navy of the United States shall not, during his continuance in said office, be concerned, directly or indirectly, in commerce, trade, or navigation.

MONDAY, February 23.

Mr. PINCKNEY, a Senator for the State of South Carolina, attended.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

The enclosed report to me, made by the acting Secretary of War, on the 14th of this month, appears to be so well founded, in all respects, that I recommend it to the consideration of Congress.

JOHN ADAMS.

UNITED STATES, Feb. 20, 1801.

The Message was read, and ordered to lie on the table.

Mr. BROWN, from the committee on the bill, giving a right of pre-emption to certain persons who have contracted with John Cleves Symmes, reported amendments; which were read, and ordered to lie for consideration.

Mr. D. FOSTER, from the committee on the bill for the relief of Nathaniel Holmes, reported it without amendment; and the bill was ordered to the third reading.

The bill, entitled "An act to continue in force the acts laying duties on licenses for selling wines and foreign distilled spirits by retail; and so much of the act laying certain duties on snuff and refined sugar, as respects a duty on refined sugar, on property sold at auction, and on carriages for the conveyance of persons," was read the third time, and passed.

A message from the House of Representatives informed the Senate that the House have passed a bill directing the mode of estimating certain foreign coins and currencies; and a bill declaring the consent of Congress to an act of the State of Maryland for the appointment of a health officer; in which bills they desire the concurrence of the Senate.

The bills this day brought up for concurrence were read, and severally passed to the second reading.

Agreeably to notice given on the 20th instant, Mr. GREENE had leave to bring in a bill for the relief of William Arnold; which was read, and passed to the second reading.

TUESDAY, February 24.

The bill declaring the consent of Congress to an act of the State of Maryland for the appointment of a health officer was read the second time, and referred to Messrs. LANGDON, BINGHAM, and TRACY, to consider and report thereon.

The bill declaring the mode of estimating foreign coins and currencies was read the second time, and referred to Messrs. BINGHAM, DAYTON, and GREENE, to consider and report thereon.

The bill for the relief of William Arnold was read the second time, and referred to Messrs. GREENE, TRACY, and ROSS, to consider and report thereon.

The bill, entitled "An act for the relief of Nathaniel Holmes," was read the third time, and passed.

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The Senate took into consideration the amendments reported by the committee, on the bill giving a right of pre-emption to certain persons who have contracted with John Cleves Symmes; and, having agreed thereto,

Ordered, That this bill pass to a third reading.

A message from the House of Representatives informed the Senate that the House concur in the bill, sent from the Senate, entitled "An act concerning the District of Columbia," with amendments." They have passed a bill making appropriations for the Navy for the year 1801; and a bill for the relief of Arnold Henry Dohrman, or his representatives; in which bills and amendments they desire the concurrence of the Senate.

The bill making appropriation for the Navy for the year 1801, was twice read, by unanimous consent, and referred to the committee appointed the 20th instant, on the bills for the appropriations for the support of Government and Military Establishment for the year 1801, to consider and report thereon.

The bill for the relief of Arnold Henry Dohrman was twice read by unanimous consent, and referred to Messrs. ROSS, DWIGHT FOSTER, and J. MASON, to consider and report thereon.

The amendments of the House of Representatives to the bill concerning the District of Columbia were read, and referred to Messrs. CHIPMAN, DAYTON, and MORRIS, the committee who originated the bill, to consider and report thereon.

Resolved, That a committee be appointed to inquire whether any, and what, further measures it is expedient to adopt with respect to the balances reported by the Commissioners appointed to settle the accounts between the United States and the several States; and that the said committee be authorized to report by bill or otherwise; and that Messrs. BLOODWORTH, WELLS, and ROSS, be the committee.

Mr. ROSS, from the committee on the bill to amend the act for the valuation of lands and dwelling-houses, reported an amendment; which was agreed to, and the bill passed to the third reading as amended.

WEDNESDAY, February 25.

Resolved, That the Secretary of the Senate be directed to purchase an eight-day clock, and cause it to be set up in the Senate Chamber; and that the expense be defrayed out of the contingent fund.

Mr. CHIPMAN, from the committee to whom was referred the amendments of the House of Representatives to the bill concerning the District of Columbia, made report; which was ordered to lie for consideration.

Mr. LANGDON, from the committee on the bill declaring the consent of Congress to an act of the State of Maryland for the appointment of a health officer, reported the bill without amendment; and the bill was ordered to the third reading.

Mr. ROSS, from the committee on the bill for the relief of Arnold Henry Dohrman, or his representatives, reported it without amendment, and the bill was ordered to the third reading.

Mr. BINGHAM, from the committee on the bill to allow the transportation of goods to and from Philadelphia and Baltimore, by the way of Appoquinimink and Sassafras, reported it without amendment, and the bill was ordered to the third reading.

Mr. BROWN, from the committee on the bill to add to the district of Massac, on the Ohio, and to amend the act to regulate the collection of duties on imports and tonnage, reported amendments.

Ordered, That they lie for consideration.

The bill, entitled "An act to amend the act, entitled 'An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States; and to repeal the act, entitled 'An act to enlarge the powers of the Surveyors of the Revenue,'" was read the third time, and passed as amended.

The bill, entitled "An act giving the right of pre-emption to certain persons who have contracted with John Cleves Symmes, or his associates, for lands lying between the Miami rivers, in the Territory of the United States Northwest of the Ohio, was read the third time, and passed with amendments.

A message from the House of Representatives informed the Senate that the House have passed a bill supplementary to an act to divide the Territory of the United States Northwest of the Ohio into two governments; and a bill to alter and establish certain post roads; in which they desire the concurrence of the Senate. The bills were read, and passed to the second reading.

Agreeably to notice given on the 20th instant, Mr. TRACY had leave to bring in a bill to prohibit the Secretary of the Navy from carrying on any business of trade, commerce, or navigation; and the bill was read, and passed to the second reading.

The bill supplementary to the act to divide the Territory of the United States Northwest of the Ohio into two governments, was, by unanimous consent, read a second time, and referred to Messrs. ROSS, ANDERSON, and BROWN, to consider and report thereon.

The bill to alter and establish certain post roads was, by unanimous consent, read the second time, and referred to Messrs. PAINE, TRACY, and ANDERSON, to consider and report thereon.

THURSDAY, February 26.

The bill to prohibit the Secretary of the Navy from carrying on any business of trade, commerce, or navigation, was read the second time, and referred to Messrs. LANGDON, NICHOLAS, and DAYTON, to consider and report thereon.

The Senate took into consideration the report of the committee on the amendments of the House of Representatives to the bill concerning the District of Columbia:

On motion to insert, between the 13th and 14th sections, as follows:

"And that it shall be lawful for the sheriffs and collectors of the public dues for the counties of Montgomery and Prince George's, in the State of Maryland, and for the sheriff of Fairfax county, in the Commonwealth

of Virginia, and they shall respectively have full powers and authority, to enter into those parts of the now District of Columbia, which were heretofore within the limits of their respective bailiwicks, for the purpose of collecting, by distress or otherwise, as they were heretofore authorized to do, all officers' fees, State taxes, county taxes, levies and muster fines, at this time due, from persons residing, or having property, subject to the payment of such officers' fees, State taxes, and county taxes, and levies, within the said District; and all disputes or controversies that do or may arise between such sheriff or collector and the person or persons from whom he or they may claim such public dues, shall be cognizable before and tried by the respective State courts to whom the trial of such controversies heretofore belonged, and not before the District of Columbia.

"And that it shall and may be lawful for the sheriffs of the said counties of Montgomery and Prince George's, in the State of Maryland, and for the sheriff of Fairfax, in the Commonwealth of Virginia, and they shall, respectively, have full power and authority, to enter into those parts of the now District of Columbia, which were heretofore within the limits of their respective bailiwicks, for the purpose of arresting and conducting to the respective jails, under their keeping and care, as they heretofore might have done had this law never passed, each and every person within the limits of the District of Columbia, upon whom such sheriff hath heretofore served a writ of *capias ad satisfaciendum*, *capias ad respondendum*, attachment, or other process, issuing from any State court, which commands and requires such sheriff to have the body of the persons before the court from which such writ or process hath issued.

And that wheresoever, by the act of Assembly of the State of Maryland, entitled "An act to establish a bank in the District of Columbia," the President of the said bank is authorized to write to the clerk of the General Court, or any county court in the State of Maryland, and to order such clerk to issue any process against a debtor of the said bank, it shall be lawful for the said President, where the debtor or debtors against whom he means to proceed resides within the limits of the county of Washington aforesaid, or has property within the limits of the same, to write to the clerk of the said county to issue such process, as, by the law of Maryland aforesaid, he might have ordered the clerk of the General Court, or any county court in the said State, to issue; which process shall issue and be returnable to the next county court to be held in the said county of Washington; and shall, by the said court, be proceeded upon in the same manner, and subject to the same rules and provisions in other respects, as is prescribed by the said act of Assembly of the State of Maryland, entitled "An act to establish a bank in the District of Columbia."

"And that the inspectors of tobacco and flour within the towns of Georgetown and Alexandria, who are now duly authorized to act as such under the laws of the respective States by which they, or any of them, are so authorized, shall continue to hold the office or offices which they now respectively fill, and to execute and discharge the duties by law imposed upon them, as inspectors of tobacco, until Congress shall otherwise provide. And that the said inspectors shall, during the time of their continuance as such, be entitled to the compensation, governed by the rules, and subject to the same penalties, provided, prescribed, and imposed by the laws of the State under which they have been respectively appointed and now act."

And it passed in the negative—yeas 12, nays 16, as follows:

YEAS—Messrs. Anderson, Armstrong, Baldwin, Bloodworth, Brown, Cocke, T. Foster, Franklin, Langdon, S. T. Mason, Nicholas, and Pinckney.

NAYS—Messrs. Dayton, Dwight Foster, Greene, Gunn, Hillhouse, Hindman, Howard, Livermore, Marshall, J. Mason, Morris, Paine, Read, Ross, Tracy and Wells.

So the amendments were agreed to.

A message from the House of Representatives informed the Senate that the House have passed a bill to amend the act altering the district of Bermuda Hundred and City Point; and a resolution respecting Theodosius Fowler; in which bill and resolution they desire the concurrence of the Senate.

The bill last brought up for concurrence was, by unanimous consent, twice read, and referred to Messrs. NICHOLAS, LANGDON, and ARMSTRONG, to consider and report thereon.

The resolution last brought up for concurrence was read, and referred to Messrs. TRACY, ARMSTRONG, and DWIGHT FOSTER, to consider and report thereon.

The bill, entitled "An act to allow the transportation of goods, wares, and merchandise, to and from Philadelphia and Baltimore, by the way of Appoquinimink and Sassafras," was read the third time and passed.

The bill, entitled "An act declaring the consent of Congress to an act of the State of Maryland, passed the 28th day of December, 1793, for the appointment of a health officer," was read the third time and passed.

The bill, entitled "An act for the relief of Arnold Henry Dohrman, or his legal representatives," was read the third time and passed.

The Senate took into consideration the amendments reported by the committee on the bill to add to the district of Massac, on the Ohio; and to amend the act to regulate the collection of duties on imports and tonnage; and, having agreed thereto, it was ordered to the third reading as amended.

Ordered, That the committee on the petition of Joseph Nourse, Register of the Treasury of the United States, be discharged, and that the petitioner have leave to withdraw his petition.

FRIDAY, February 27.

Mr. TRACY, from the committee on the bill making appropriations for the Military Establishment for the year 1801, reported it without amendment, and the bill was ordered to the third reading.

The bill, entitled "An act to add to the district of Massac, on the Ohio, and to discontinue the districts of Louisville, in the State of Kentucky, and Palmyra, in the State of Tennessee, and therein to amend the act, entitled 'An act to regulate, the collection of duties on imports and tonnage,'" was read the third time, amended, and passed.

Mr. BINGHAM, from the committee on the bill directing the mode of estimating foreign coins and currencies, reported that the bill pass without

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amendment; and the bill being amended, on motion, passed to the third reading as amended.

A message from the House of Representatives informed the Senate that the House have passed a bill to amend the act to retain a further sum on drawbacks, and a bill providing for a Naval Peace Establishment; in which they desire the concurrence of the Senate.

The bill first mentioned, for concurrence, was twice read, by unanimous consent, and referred to Messrs. ROSS, J. MASON, and BINGHAM, to consider and report thereon.

The bill last mentioned in the message was twice read, by unanimous consent, and referred to Messrs. NICHOLAS, TRACY, and LANGDON, to consider and report thereon.

Mr. BINGHAM presented the petition of Philip Sloan, late a captive in Algiers, for adjustment of his account for ransom; and the petition was read and referred to the Secretary for the Department of Treasury, to report thereon.

Mr. PAINE, from the committee on the bill further to alter and establish certain post roads, reported amendments, which were read and ordered to lie for consideration.

Mr. ROSS, from the committee on the bill supplementary to the act to divide the Territory of the United States Northwest of the Ohio into two governments, reported an amendment, which was agreed to, and the bill passed to the third reading as amended.

Mr. NICHOLAS, from the joint committee appointed on the 18th inst. on the Message of the President of the United States, of the 16th, relative to the public property in his possession, made report; which was read and ordered to lie for consideration.

Mr. DWIGHT FOSTER presented the petition of James Mathers, Thomas Claxton, and Thomas Dunn, praying leave to continue in the houses on Capitol Square, of which they obtained possession from the city commissioners; and the petition was read.

SATURDAY, February 28.

The VICE PRESIDENT addressed the Senate as follows:

Gentlemen of the Senate:

To give the usual opportunity of appointing a President, *pro tempore*, I now propose to retire from the Chair of the Senate; and, as the time is near at hand when the relations will cease which have for some time subsisted between this honorable House and myself, I beg leave, before I withdraw, to return them my grateful thanks for all the instances of attention and respect with which they have been pleased to honor me. In the discharge of my functions here, it has been my conscientious endeavor to observe impartial justice, without regard to persons or subjects; and if I have failed of impressing this on the mind of the Senate, it will be to me a circumstance of the deepest regret. I may have erred at times—no doubt I have erred—this is the law of human nature. For honest errors, however, indulgence may be hoped.

I owe to truth and justice, at the same time, to declare, that the habits of order and decorum, which so

strongly characterize the proceedings of the Senate, have rendered the umpirage of their President an office of little difficulty; that, in times and on questions which have severely tried the sensibilities of the House, calm and temperate discussion has rarely been disturbed by departures from order.

Should the support which I have received from the Senate, in the performance of my duties here, attend me into the new station to which the public will has transferred me, I shall consider it as commencing under the happiest auspices.

With these expressions of my dutiful regard to the Senate as a body, I ask leave to mingle my particular wishes for the health and happiness of the individuals who compose it, and to tender them my cordial and respectful adieu.

After which the VICE PRESIDENT retired.

Whereupon the Senate proceeded to the election of a President *pro tempore*, as the Constitution provides; and JAMES HILLHOUSE was duly elected.

Ordered, That the Address of the VICE PRESIDENT, made this day, taking leave of the Senate, be referred to a committee, with instruction to prepare and report the draught of an Address in answer thereto; and that Messrs. MORRIS, J. MASON, and DAYTON, be the committee.

The PRESIDENT laid before the Senate a report from the Secretary for the Department of the Treasury, of the emoluments of the officers employed in the collection of the customs for the year 1800; which was read, and ordered to lie on the table.

Mr. TRACY, from the committee on the bill making appropriations for the support of Government for the year 1801, reported amendments, which were agreed to, and the bill, by unanimous consent, was read a third time, amended, and passed.

Mr. TRACY, from the committee above mentioned, reported the bill making appropriations for the Navy of the United States, for the year 1801, without amendment; and the bill passed to the third reading.

The bill, entitled "An act supplementary to the act, entitled 'An act to divide the Territory of the United States Northwest of the Ohio, into two separate governments,'" was read the third time, further amended, and passed, with amendments.

A message from the House of Representatives informed the Senate that the House have passed a bill to amend the act to establish a uniform system of bankruptcy; and a bill to augment the salaries of the District Judges of Massachusetts, New York, Delaware, and Maryland; also, a resolution respecting certain property of the United States, in the possession of Thomas Claxton, James Mathers, and Thomas Dunn, Doorkeepers to Congress; in which bills and resolution they desire the concurrence of the Senate.

The bill last mentioned in the message was twice read, by unanimous consent, and referred to Messrs. BALDWIN, BROWN, and LANGDON, to consider and report thereon.

The bill to amend the act to establish a uniform system of bankruptcy was read, and passed to the second reading.

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The resolution respecting certain property of the United States, in the possession of Thomas Claxton, James Mathers, and Thomas Dunn, was read, and agreed to.

Mr. TRACY, from the committee on the bill to incorporate a mine and metal company, reported amendments; which were read, and ordered to lie for consideration.

The bill, entitled "An act directing the mode of estimating certain foreign coins and currencies, and of making out invoices in certain cases," was read the third time, further amended, and passed.

The bill, entitled, "An act making appropriations for the Military Establishment of the United States for the year 1801," was read the third time, and passed.

The Senate took into consideration the amendments reported by the committee to the bill further to alter and establish certain post roads; and, having agreed thereto, the bill passed to the third reading, as amended.

Mr. NICHOLAS, from the committee on the bill to amend the act altering the district of Bermuda Hundred and City Point, reported an amendment; which was agreed to, and the bill passed to the third reading, as amended.

MONDAY, March 2.

A message from the House of Representatives informed the Senate that they have passed a bill altering the times and places of holding certain courts; a bill authorizing the remission of duties on certain teas destroyed by fire; a bill to discharge Laurence Elb from his confinement; a bill to amend the act to establish a general stamp office; a bill concerning the Mint; a bill to authorize the Secretary of the Treasury to employ clerks for completing the abstracts for the valuation of lands and dwelling-houses; a bill fixing the compensation of receivers of public moneys for lands of the United States; and a bill supplementary to the act concerning the District of Columbia; in which bills they desire the concurrence of the Senate.

Mr. MORRIS, from the committee appointed the 28th ultimo, on the Address of the VICE PRESIDENT, made on his taking leave of the Senate, reported an answer thereto, which was read, as follows:

SIR: While we congratulate you on those expressions of the public will, which called you to the first office in the United States, we cannot but lament the loss of that intelligence, attention, and impartiality, with which you have presided over our deliberations. The Senate feel themselves much gratified by the sense you have been pleased to express of their support in the performance of your late duties. Be persuaded that it will never be withheld from a Chief Magistrate who, in the exercise of his office, shall be influenced by a due regard to the honor and interests of our country.

In the confidence that your official conduct will be directed to these great objects, a confidence derived from past events, we repeat to you, sir, the assurance of our Constitutional support in your future administration.

On the motion to strike out these words: "a confidence derived from past events," it passed in the negative—yeas 9, nays 19, as follows:

YEAS—Messrs. Chipman, Hindman, Howard, Livermore, Paine, Read, Ross, Tracy, and Wells.

NAYS—Messrs. Anderson, Armstrong, Baldwin, Bloodworth, Brown, Cocke, Dayton, T. Foster, D. Foster, Franklin, Greene, Gunn, Hillhouse, Marshall, S. T. Mason, J. Mason, Morris, Nicholas, and Pinckney.

And the report was agreed to.

Ordered, That the committee who draughted the answer to the Address wait on the President elect of the United States, and present it to him.

The PRESIDENT laid before the Senate a letter from the PRESIDENT elect of the United States; which was read, as follows:

WASHINGTON, March 2, 1801.

SIR: I beg leave, through you, to inform the honorable the Senate of the United States that I propose to take the oath which the Constitution prescribes to the President of the United States, before he enters on the execution of his office, on Wednesday, the 4th instant, at 12 o'clock, in the Senate Chamber.

I have the honor to be, with the greatest respect, sir, your most obedient and most humble servant,

TH. JEFFERSON.

The PRESIDENT *pro tempore* of the Senate.

Ordered, That the foregoing letter be referred to Messrs. MORRIS, DAYTON, and Ross, to report thereon.

The bill supplementary to the act concerning the District of Columbia was twice read, by unanimous consent, and referred to Messrs. HINDMAN, ROSS, and NICHOLAS, to consider and report thereon.

The bill, entitled "An act making appropriations for the Navy of the United States for the year one thousand eight hundred and one," was read the third time, and passed.

The bill, entitled "An act further to alter and establish certain post roads," was read the third time, amended, and passed.

The bill, entitled "An act to amend the act altering the district of Bermuda Hundred and City Point," was read the third time, amended, and passed.

The bill altering the times and places of holding certain courts was twice read, by unanimous consent, and referred to Messrs. BROWN, GREENE, and J. MASON, to consider and report thereon.

The bill to amend the act to establish a uniform system of bankruptcy was read the second time, and referred to Messrs. NICHOLAS, MORRIS, and TRACY, to consider and report thereon.

The bill to amend the act to establish a general stamp-office was read, and passed to the second reading.

The bill to authorize the remission of duties on certain teas destroyed by fire was twice read, by unanimous consent, and referred to Messrs. T. FOSTER, TRACY, and GREENE, to consider and report thereon.

The bill to authorize the Secretary of the Treasury, to employ clerks to copy certain abstracts for the valuation of lands and dwelling-houses was twice read, by unanimous consent, and referred to Messrs. PAINE, BLOODWORTH, and HOWARD, to consider and report thereon.

Mr. BALDWIN, from the committee on the bill

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to augment the salaries of the district Judges therein mentioned, reported it without amendment.

The bill concerning the Mint was twice read, by unanimous consent, and passed to the third reading.

The bill fixing the compensation of the receivers of public moneys for lands of the United States was twice read, by unanimous consent, and referred to Messrs. MARSHALL, BROWN, and ROSS, to consider and report thereon.

The bill to discharge Laurence Elb from his confinement was read, and passed to the second reading.

Ordered, That the committee who were appointed to take into consideration the letter from the President elect of the United States, of this day, be discharged.

A motion was made as follows :

The President elect of the United States having informed the Senate that he proposes to take the oath which the Constitution prescribes to the President of the United States before he enters on the execution of his office, on Wednesday, the 4th instant, at 12 o'clock, in the Senate Chamber :

Ordered, That the Secretary communicate that information to the House of Representatives; that seats be provided for such members of the House of Representatives and such of the public Ministers as may think proper to attend; and that the gallery be opened to the citizens of the United States.

And the motion was agreed to.

A message from the House of Representatives informed the Senate that the House have passed a bill in addition to the act making provision for the further accommodation of the household of the President of the United States, in which they desire the concurrence of the Senate. They agree to the amendments of the Senate to the bill making appropriations for the support of Government for the year 1801, with amendments, in which they desire the concurrence of the Senate.

The Senate took into consideration the amendments of the House of Representatives to their amendments to the bill making appropriations for the support of Government for the year 1801.

Ordered, That the committee appointed the 20th ultimo, and who reported the amendments, be revived, and that the amendments be referred to that committee.

Mr. LANGDON, from the committee on the bill to prohibit the Secretary of the Navy from carrying on any business of trade or commerce, reported it without amendment.

And it was agreed that this bill be read the third time.

The Senate resumed the second reading of the bill to augment the salaries of the district Judges, in the districts therein mentioned, and it was agreed that the bill pass to the third reading.

Mr. TRACY, from the committee on the amendments of the House of Representatives to those of the Senate to the bill making appropriations for the support of Government for the year 1801, reported that the Senate concur in said amendments to the amendments; and the Senate agreed thereto.

The bill in addition to the act making provision for the further accommodation of the household of the President of the United States was twice read, by unanimous consent, and passed to the third reading.

The Senate took into consideration the amendments reported by the committee to the bill to incorporate the persons therein named, as a Mine and Metal Company, which were agreed to; and, on the question to agree to third reading of the bill, it passed in the negative.

The PRESIDENT laid before the Senate a letter from Governor Ogle, with two volumes of the laws of Maryland, and the letter was read.

TUESDAY, March 3.

Mr. T. FOSTER, from the committee on the bill authorizing the remission of duties on certain teas destroyed by fire, reported it without amendment.

The bill to amend the act to establish a general stamp office was read the second time, and referred to Messrs. ROSS, LIVERMORE, and MARSHALL, to consider and report thereon.

Mr. MARSHALL, from the committee on the bill fixing the compensation of receivers of public moneys for lands of the United States, reported amendments.

The bill to authorize the discharge of Lawrence Elb from his confinement was read the second time, and referred to Messrs. ROSS, GREENE, and WELLS, to consider and report thereon.

A message from the House of Representatives informed the Senate that the House agree to the amendments of the Senate to the bill to erect a mausoleum for GEORGE WASHINGTON, with amendments, in which they desire the concurrence of the Senate. They have passed a bill for erecting light-houses and placing buoys on New Point Comfort, Long Island Sound, and other places; and a bill further to amend the act establishing the temporary and permanent seat of Government of the United States; in which they desire the concurrence of the Senate.

Mr. BLOODWORTH, from the committee appointed the 24th ultimo, respecting the balances reported by the commissioners for settling the accounts between the United States and the several States, made report, which was read.

The Senate took into consideration the amendments to the amendments on the bill to erect a mausoleum for GEORGE WASHINGTON; and on motion to postpone the further consideration of this bill until the first Monday in December next, it passed in the affirmative—yeas 14, nays, 13, as follows:

YEAS—Messrs. Anderson, Armstrong, Baldwin, Brown, Cocke, Gunn, Hindman, J. Mason, Morris, Pinckney, Read, Ross, Tracy and Wells.

NAYS—Messrs. Bloodworth, Chipman, Dayton, T. Foster, Franklin, Greene, Hillhouse, Howard, Langdon, Livermore, Marshall, Nicholas, and Paine.

The bill concerning the Mint was read the third time and passed.

The bill, entitled "An act in addition to an act, entitled 'An act making provision for the further

accommodation of the household of the President of the United States," was read the third time, amended, and passed.

The bill, entitled "An act to augment the salaries of the district Judges, in the districts of Massachusetts, New York, Delaware, and Maryland, respectively," was read the third time and amended.

On the question to agree to the final passage of this bill as amended, it passed in the affirmative—yeas 13, nays 12, as follows:

YEAS—Messrs. Armstrong, Dayton, T. Foster, Gunn, Hillhouse, Hindman, Howard, Livermore, J. Mason, Morris, Nicholas, Tracy, and Wells.

NAYS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Chipman, Cocke, Franklin, Langdon, Marshall, S. T. Mason, Pinckney and Ross.

So it was *Resolved*, That this bill pass with amendments.

The bill to prohibit the Secretary of the Navy from being concerned in trade or commerce was read the third time and passed.

Mr. NICHOLAS, from the committee on the bill providing for a Naval Peace Establishment, reported amendments, which being agreed to, the bill was read the third time by unanimous consent and passed.

Mr. MORRIS, from the committee appointed to wait on the President elect of the United States and present him with the answer of the Senate to his Address on taking leave, communicated his reply, which was read as follows:

GENTLEMEN: I receive with due sensibility the congratulations of the Senate on being called to the first Executive office of our Government; and I accept, with great satisfaction, their assurances of support in whatever regards the honor and interest of our country. Knowing no other object in the discharge of my public duties, their confidence in my future conduct, derived from past events, shall not be disappointed, so far as my judgment may enable me to discern those objects.

The approbation they are so good as to express of my conduct in the Chair of the Senate, is highly gratifying to me; and I pray them to accept my humble thanks for these declarations of it.

TH. JEFFERSON.

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Mr. TRACY, from the committee on the resolution respecting Theodosius Fowler, reported that the further consideration thereof be postponed until the first Monday in December next; and the report was agreed to.

The bill this day brought up for concurrence, entitled "An act for erecting light-houses on New Point Comfort and on Smith's Point, in the State of Virginia, and on Faulkner's Island, in Long Island Sound, in the State of Connecticut, and for placing buoys in Narraganset Sound," was three times read by unanimous consent and passed.

Mr. HINDMAN, from the committee on the bill supplementary to the act respecting the District of Columbia, reported amendments.

Mr. PAINE, from the committee on the bill to authorize the Secretary of the Treasury to employ certain clerks, reported the bill without amendment; and it was read the third time by unanimous consent and passed.

Mr. BROWN, from the committee on the bill, entitled "An act for altering the times and places of holding certain courts therein mentioned, and for other purposes," reported an amendment; which was agreed to, and the bill was read the third time by unanimous consent, and passed as amended.

The bill further to amend the act establishing the temporary and permanent seat of Government of the United States was twice read by unanimous consent, and referred to Messrs. TRACY, ROSS, and PAINE, to consider and report thereon.

Mr. NICHOLAS, from the committee on the bill to amend the act establishing an uniform system of bankruptcy, reported amendments.

The Senate took into consideration the amendments reported by the committee to the bill, entitled "An act supplementary to the act, entitled 'An act concerning the District of Columbia;'" and having agreed thereto, the bill was, by unanimous consent, read the third time, and passed as amended.

The bill entitled "An act authorizing the remission of duties on certain teas destroyed by fire, while under the care of the officers of the customs, in Providence, Rhode Island," was, by unanimous consent, read the third time and passed.

The Senate adjourned to 6 o'clock this evening.

TUESDAY EVENING, 6 o'clock.

AARON OGDEN, appointed a Senator by the Legislature of the State of New Jersey, in place of James Schureman, resigned, produced his credentials, was qualified, and took his seat in the Senate.

The President laid before the Senate the report of the Secretary for the Department of Treasury, to whom was referred the petition of Philip Sloan, praying to be reimbursed a sum of money stated to have been paid for his ransom from the Algerines; which was read.

The Senate took into consideration the amendments reported by the committee to the bill, entitled "An act fixing the compensation of receivers of public moneys for lands of the United States;" and having agreed thereto, the bill was read the third time by unanimous consent, and passed with amendments.

Mr. ROSS, from the committee on the bill to amend the act to establish a general stamp office, reported it without amendment; and the bill was read the third time by unanimous consent, and passed.

The Senate took into consideration the amendments reported by the committee to the bill to amend the act establishing an uniform system of bankruptcy; which being agreed to,

On motion that this bill be now read by unanimous consent the third time, it was objected to. So the bill was lost.

A message from the House of Representatives informed the Senate that the House agree to some and disagree to other amendments of the Senate to the bill fixing the compensations of receivers of public moneys for lands of the United States.

The Senate took into consideration their amendment, disagreed to by the House of Representatives, to the bill fixing the compensation of

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receivers of public moneys for lands of the United States; and,

Resolved, That they do insist on their said amendment.

Mr. GREENE, from the committee on the bill for the relief of William Arnold, reported that the further consideration of this bill be postponed until the first Monday in December next; and the report being agreed to, the bill was postponed accordingly.

Mr. TRACY, from the committee on the bill further to amend the act for establishing the temporary and permanent seat of Government, made report.

On motion that this bill be now read the third time by unanimous consent, it was objected to. So the bill was lost.

Mr. ROSS, from the committee on the bill to amend the act to retain a further sum on drawbacks in lieu of stamp duties on debentures, made report.

On motion that this bill be now read the third time by unanimous consent, it was objected to. So the bill was lost.

Mr. ROSS, from the committee on the bill to authorize the discharge of Laurence Elb from his confinement, reported it without amendment.

On motion that this bill be now read the third time by unanimous consent, it was objected to. So the bill was lost.

Ordered, That the Secretary of the Senate be, and he is hereby, authorized to retain to his own use, out of the contingent fund, the sum of three hundred dollars, as a compensation for his additional expenses at the seat of Government, during the present session of Congress.

Ordered, That the Secretary of the Senate be authorized and directed to pay, out of the moneys appropriated to defray the contingent expenses of the Senate, the sum of two hundred dollars each, to the principal and engrossing clerks in his office, and to the Doorkeeper and Assistant Doorkeeper of the Senate.

Ordered, That the Secretary of the Senate be, and he is hereby, authorized to pay to Hugh McKinley, out of the contingent fund, the sum of two dollars and a half per diem, as a compensation for his labor and attendance on the Senate during the present session of Congress.

Ordered, That Messrs. READ and WELLS be a committee on the part of the Senate, with such as the House of Representatives may join, to wait on the President of the United States, and notify him that, unless he may have any further communications to make to the two Houses of Congress, they are ready to adjourn.

Ordered, That the Secretary of the Senate pay to Bishop CLAGGETT, the Chaplain of the Senate, for the present session, one hundred dollars out of the contingent fund, in addition to the allowance to which he is by law entitled.

A message from the House of Representatives informed the Senate that the House concur in the resolution of the Senate appointing a joint committee to wait on the President of the United States, and notify him of the proposed adjourn-

ment of the two Houses of Congress, and have appointed a committee on their part. And that the House of Representatives, having completed the business before them, are about to adjourn without day.

Mr. READ reported, from the joint committee, that they had waited on the President of the United States and that he replied, that he had nothing further to communicate to Congress, except his best wishes for the health and happiness of its members respectively.

The Senate then adjourned without day.

PROCEEDINGS OF A SESSION SPECIALLY CALLED,

On WEDNESDAY, March 4, 1801.

To the Senators of the United States, respectively :

SIR: It appearing to me proper and necessary for the public service, that the Senate of the United States should be convened on Wednesday the 4th of March next, you are desired to attend in the Chamber of the Senate on that day, at 10 o'clock in the forenoon, to receive and act upon any communications which the President of the United States may then lay before you touching their interests, and to do and consider all other things which may be proper and necessary for the public service, for the Senate to do and consider.

JOHN ADAMS,

President of the United States.

JANUARY 30, 1801.

In conformity to the summons from the President of the United States above recited, the Senate assembled in their Chamber.

PRESENT :

AARON BURR, Vice President of the United States, and President of the Senate.

SAMUEL LIVERMORE, and JAMES SHEAFE, from New Hampshire;

DWIGHT FOSTER and JONATHAN MASON, from Massachusetts;

THEODORE FOSTER and RAY GREENE, from Rhode Island;

URIAH TRACY and JAMES HILEHOUSE, from Connecticut;

NATHANIEL CHIPMAN, from Vermont;

GOVERNEUR MORRIS and JOHN ARMSTRONG, from New York;

JONATHAN DAYTON and AARON OGDEN, from New Jersey;

JAMES ROSS and PETER MUHLENBERG, from Pennsylvania;

WILLIAM HILL WELLS and SAMUEL WHITE, from Delaware;

JOHN E. HOWARD from Maryland;

STEVENS T. MASON and WILSON CARY NICHOLAS, from Virginia;

JOHN BROWN, from Kentucky;

JESSE FRANKLIN and DAVID STONE, from North Carolina;

JOSEPH ANDERSON and WILLIAM COCKE, from Tennessee;

CHARLES PINCKNEY, from South Carolina;

ABRAHAM BALDWIN, from Georgia.

Mr. HILLHOUSE administered the oath of office to the VICE PRESIDENT, who took the Chair, and the credentials of the following members were read:

Of Mr. ARMSTRONG, Mr. MUHLENBERG, Mr. SHEAFE, Mr. STONE, Mr. TRACY, and Mr. WHITE.

And the oath of office was administered to Mr. ARMSTRONG, Mr. MUHLENBERG, Mr. SHEAFE, Mr. STONE, and Mr. WHITE, by the VICE PRESIDENT.

Exception being taken to the credentials of the Hon. Mr. TRACY, a Senator from the State of Connecticut, a debate ensued; and, on motion that he be admitted to take the oath required by the Constitution, it passed in the affirmative—yeas 13, nays 10; as follows:

YEAS—Messrs. Chipman, Dayton, Dwight Foster, Hillhouse, Howard, Livermore, J. Mason, Morris, Ogden, Ross, Sheafe, Wells, and White.

NAYS—Messrs. Anderson, Armstrong, Baldwin, Brown, Cocke, S. T. Mason, Muhlenberg, Nicholas, Pinckney, and Stone.

And the oath was accordingly administered to Mr. TRACY by the VICE PRESIDENT.

The PRESIDENT OF THE UNITED STATES, attended by the Heads of Departments, the Marshal of the District, his officers and other gentlemen, came into the Senate Chamber and took his seat in the chair usually occupied by the VICE PRESIDENT. The VICE PRESIDENT took a separate seat on the right of the PRESIDENT OF THE UNITED STATES, and the Chief Justice of the United States on the left. After a short pause, the PRESIDENT OF THE UNITED STATES rose, and addressed the audience as follows:

Friends and fellow-citizens :

Called upon to undertake the duties of the first Executive office of our country, I avail myself of the presence of that portion of my fellow-citizens which is here assembled, to express my grateful thanks for the favor with which they have been pleased to look towards me, to declare a sincere consciousness that the task is above my talents, and that I approach it with those anxious and awful presentiments which the greatness of the charge, and the weakness of my powers, so justly inspire. A rising nation spread over a wide and fruitful land, traversing all the seas with the rich productions of their industry, engaged in commerce with nations who feel power and forget right, advancing rapidly to destinies beyond the reach of mortal eye; when I contemplate these transcendent objects, and see the honor, the happiness, and the hopes, of this beloved country committed to the issue and the auspices of this day, I shrink from the contemplation, and humble myself before the magnitude of the undertaking. Utterly indeed should I despair, did not the presence of many whom I here see remind me, that, in the other high authorities provided by our Constitution, I shall find resources of wisdom, of virtue, and of zeal, on which to rely under all difficulties. To you, then, gentlemen, who are charged with the sovereign functions of legislation, and to those associated with you, I look with encouragement for that guidance and support which may enable us to steer with safety the vessel in which we are all embarked, amidst the conflicting elements of a troubled world.

During the contest of opinion through which we have passed, the animation of discussions and of exertions has sometimes worn an aspect which might impose on

strangers unused to think freely, and to speak and to write what they think; but this being now decided by the voice of the nation, announced according to the rules of the Constitution, all will of course arrange themselves under the will of the law, and unite in common efforts for the common good. All too will bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will, to be rightful, must be reasonable; that the minority possess their equal rights, which equal law must protect, and to violate would be oppression. Let us then, fellow-citizens, unite with one heart and one mind, let us restore to social intercourse that harmony and affection without which, liberty, and even life itself, are but dreary things. And let us reflect, that, having banished from our land that religious intolerance under which mankind so long bled and suffered, we have yet gained little, if we countenance a political intolerance, as despotic, as wicked, and capable of as bitter and bloody persecutions. During the throes and convulsions of the ancient world, during the agonizing spasms of infuriated man, seeking through blood and slaughter his long lost liberty, it was not wonderful that the agitation of the billows should reach even this distant and peaceful shore; that this should be more felt and feared by some and less by others; and should divide opinions as to measures of safety; but every difference of opinion is not a difference of principle. We have called by different names brethren of the same principle. We are all Republicans: we are all Federalists. If there be any among us who would wish to dissolve this Union, or to change its republican form, let them stand undisturbed as monuments of the safety with which error of opinion may be tolerated, where reason is left free to combat it. I know indeed that some honest men fear that a Republican Government cannot be strong; that this Government is not strong enough. But would the honest patriot, in the full tide of successful experiment, abandon a Government which has so far kept us free and firm, on the theoretic and visionary fear that this Government, the world's best hope, may, by possibility, want energy to preserve itself? I trust not. I believe this, on the contrary, the strongest Government on earth. I believe it the only one where every man, at the call of the law, would fly to the standard of the law, and would meet invasions of the public order as his own personal concern. Sometimes it is said that man cannot be trusted with the government of himself. Can he then be trusted with the government of others? Or have we found angels in the form of kings to govern him? Let history answer this question.

Let us then, with courage and confidence, pursue our own federal and republican principles; our attachment to union and representative government. Kindly separated by nature and a wide ocean from the exterminating havoc of one quarter of the globe; too high-minded to endure the degradations of the others; possessing a chosen country, with room enough for our descendants to the thousandth and thousandth generation; entertaining a due sense of our equal right to the use of our own faculties, to the acquisitions of our own industry, to honor and confidence from our fellow-citizens, resulting not from birth, but from our actions and their sense of them; enlightened by a benign religion, professed indeed and practised in various forms, yet all of them inculcating honesty, truth, temperance, gratitude, and the love of man, acknowledging and adoring an overruling Providence, which, by all its dispensations, proves that it delights in the happiness of man here, and his greater happiness hereafter; with

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all these blessings, what more is necessary to make us a happy and a prosperous people? Still one thing more, fellow-citizens—a wise and frugal Government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government; and this is necessary to close the circle of our felicities.

About to enter, fellow-citizens, on the exercise of duties which comprehend everything dear and valuable to you, it is proper you should understand what I deem the essential principles of our Government, and consequently those which ought to shape its Administration. I will compress them within the narrowest compass they will bear, stating the general principle, but not all its limitations. Equal and exact justice to all men, of whatever state or persuasion, religious or political: peace, commerce, and honest friendship with all nations, entangling alliances with none: the support of the State Governments in all their rights, as the most competent administrations for our domestic concerns, and the surest bulwarks against anti-republican tendencies: the preservation of the General Government in its whole Constitutional vigor, as the sheet-anchor of our peace at home, and safety abroad: a jealous care of the right of election by the people; a mild and safe corrective of abuses which are lopped by the sword of revolution, where peaceable remedies are unprovided: absolute acquiescence in the decisions of the majority, the vital principle of Republics, from which is no appeal but to force, the vital principle and immediate parent of despotism: a well disciplined militia, our best reliance in peace, and for the first moments of war, till regulars may relieve them: the supremacy of the civil over the military authority—economy in the public expense, that labor may be lightly burdened: the honest payment of our debts, and sacred preservation of the public faith: encouragement of agriculture, and of commerce as its handmaid: the diffusion of information, and arraignment of all abuses at the bar of the public reason: freedom of religion, freedom of the press, and freedom of person, under the protection of the habeas corpus; and trial by juries impartially selected. These principles form the bright constellation which has gone before us, and guided our steps through an age of revolution and reformation. The wisdom of our sages, and blood of our heroes, have been devoted to their attainment: they should be the creed of our political faith; the text of civic instruction; the touchstone by which to try the services of those we trust; and should we wander from them in moments of error or of alarm, let us hasten to retrace our steps, and to regain the road which alone leads to peace, liberty, and safety.

I repair then, fellow-citizens, to the post you have assigned me. With experience enough in subordinate offices to have seen the difficulties of this, the greatest of all, I have learnt to expect that it will rarely fall to the lot of imperfect man to retire from this station with the reputation and the favor which bring him into it. Without pretensions to that high confidence you reposed in our first and greatest revolutionary character, whose pre-eminent services had entitled him to the first place in his country's love, and destined for him the fairest page in the volume of faithful history, I ask

so much confidence only as may give firmness and effect to the legal administration of your affairs. I shall often go wrong through defect of judgment. When right, I shall often be thought wrong by those whose positions will not command a view of the whole ground. I ask your indulgence for my own errors, which will never be intentional; and your support against the errors of others, who may condemn what they would not, if seen in all its parts. The approbation implied by your suffrage is a great consolation to me for the past; and my future solicitude will be, to retain the good opinion of those who have bestowed it in advance, to conciliate that of others by doing them all the good in my power, and to be instrumental to the happiness and freedom of all.

Relying then on the patronage of your good will, I advance with obedience to the work, ready to retire from it whenever you become sensible how much better choices it is in your power to make. And may that Infinite Power which rules the destinies of the universe lead our councils to what is best, and give them a favorable issue for your peace and prosperity.

The oath of office was then administered to him by the Chief Justice of the United States. After which the President of the United States retired. The Senate then adjourned till to-morrow.

THURSDAY, March 5.

WILLIAM HINDMAN, appointed a Senator by the State of Maryland, produced his credentials, and the oath of office was administered to him by the VICE PRESIDENT.

Ordered, That Messrs. NICHOLAS and BALDWIN be a committee to wait on the President of the United States, and notify him that the Senate is assembled and ready to receive any communications which he may be pleased to make to them.

The VICE PRESIDENT communicated a letter from RAY GREENE, a Senator from the State of Rhode Island, resigning his seat; which was read.

Resolved, That the VICE PRESIDENT be requested to notify to the Executive of the State of Rhode Island, that RAY GREENE hath resigned his seat in the Senate.

Mr. NICHOLAS reported, from the committee, that they had waited on the President of the United States and that he had informed the committee that he would immediately lay a Message before the Senate. The Message was received, containing nominations to fill Executive offices; which, after being considered,

Ordered, That Messrs. NICHOLAS and BALDWIN be a committee to wait on the President of the United States, and notify him, that, unless he has any further communication to make, the Senate are ready to adjourn.

Mr. NICHOLAS reported, from the committee, that they had waited on the President of the United States, and that he had informed them that he had no further communications to make to the Senate.

Whereupon, the VICE PRESIDENT adjourned the Senate without day.

PROCEEDINGS IN THE SENATE,

IN SECRET SESSION,

Which took place on the Ratification of the Convention with the French Republic.

TUESDAY, December 16, 1800.

The following Message was received from the
PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate:

I transmit to the Senate, for their consideration and decision, a convention, both in English and French, between the United States of America and the French Republic, signed at Paris, on the thirtieth day of September last, by the respective Plenipotentiaries of the two Powers. I also transmit to the Senate, three manuscript volumes, containing the journal of our Envoys.

JOHN ADAMS.

UNITED STATES, Dec. 15, 1800.

The Message and convention were read; and, after progress in reading the other papers accompanying the Message,

Ordered, That the further reading thereof be postponed.

WEDNESDAY, December 17.

The reading of the papers communicated with the Message of the President of the United States, of the 15th, was resumed; and, after progress,

Ordered, That the further consideration thereof be postponed.

THURSDAY, December 18.

The reading of the papers communicated with the Message of the President of the United States, of the 15th instant, was resumed, and the papers being read through,

A motion was made, that it be

Resolved, That the President of the United States be requested to lay before the Senate the instructions given to our late Commissioners to the French Republic.

Ordered, That it lie on the table.

FRIDAY, December 19.

The Senate proceeded to consider the motion, made yesterday, that the President of the United States be requested to lay before the Senate the instructions given to our late Commissioners to the French Republic; which, being amended, was adopted, as follows:

Resolved, That the President of the United States be requested to lay before the Senate the instructions given to our late Envoys Extraordinary and Ministers Plenipotentiary to the French Republic.

Ordered, That the Secretary lay this resolution before the President of the United States.

Resolved, That Mr. MORRIS, Mr. TRACY, and Mr. THEODORE FOSTER, be a committee to procure a translation of so much of the journal of the late Envoys Extraordinary and Ministers Plenipotentiary of the United States to the French Republic, as is communicated in the French language.

MONDAY, December 22.

The following Message was received from the
PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate:

In conformity with your request, in your resolution of the 19th of this month, I transmit you the instructions given to our late Envoys Extraordinary and Ministers Plenipotentiary to the French Republic.

It is my request to the Senate that these instructions may be considered in strict confidence, and returned to me as soon as the Senate shall have made all the use of them they may judge necessary.

JOHN ADAMS.

UNITED STATES, Dec. 22, 1800.

On motion,

Resolved, That all confidential communications made by the President of the United States to the Senate, shall be, by the members thereof, kept inviolably secret; and that all treaties which may hereafter be laid before the Senate, shall also be kept secret, until the Senate shall, by their resolution, take off the injunction of secrecy.

WEDNESDAY, December 31.

The Senate resumed the consideration of the convention made on behalf of the United States with the Republic of France; and, after progress,

Ordered, That the further consideration thereof be postponed.

MONDAY, January 5, 1801.

A motion was made that the following rule be adopted, to wit:

Resolved, (as a standing rule.) That whenever a treaty shall be laid before the Senate for ratification, it shall be read a first time, for information only; when no motion to reject, ratify, or modify, the whole, or any part, shall be received.

That its second reading shall be for consideration, and on a subsequent day, when it shall be taken up, as in a Committee of the Whole, and every one shall be free to move a question on any particular article, in this form—"Will the Senate advise and consent to the ratification of this article?" or to propose amendments thereto, either by inserting or by leaving out words; in which last case, the question shall be, "Shall the

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words stand part of the article?" And in every of the said cases, the concurrence of two-thirds of the Senators present shall be requisite to decide affirmatively. And when through the whole, the proceedings shall be stated to the House, and questions be again severally put thereon for confirmation, or new ones proposed, requiring, in like manner, a concurrence of two-thirds for whatever is retained or inserted.

That the votes so confirmed shall, by the House, or a committee thereof, be reduced into the form of a ratification, with or without modifications, as may have been decided, and shall be proposed on a subsequent day, when every one shall again be free to move amendments, either by inserting or leaving out words; in which last case, the question shall be, "Shall the words stand part of the resolution?" And in both cases the concurrence of two-thirds shall be requisite to carry the affirmative, as well as on the final question to advise and consent to the ratification, in the form agreed to.

It was agreed that the motion should lie for consideration.

TUESDAY, January 6.

The Senate resumed the motion, made yesterday, for an additional rule in the consideration of treaties; and the motion was agreed to, and the rule adopted accordingly.

The Senate proceeded to consider the convention made on behalf of the United States with the Republic of France;

And, the second article being under consideration, a question was moved and put, to wit: "Will the Senate advise and consent to the ratification of this article?" And, after debate,

Ordered, That the further consideration thereof be postponed.

THURSDAY, January 8.

The Senate resumed the consideration of the convention made on behalf of the United States with the Republic of France;

And the second article having been debated, a question was moved thereon, to wit: "Will the Senate advise and consent to the ratification of this article?"

And the yeas and nays being taken, are as follows—yeas 11, nays 16:

YEAS—Messrs. Baldwin, Bloodworth, Brown, Cocke, T. Foster, Franklin, Greene, Langdon, S. T. Mason, Nicholas, and Paine.

NAYS—Messrs. Armstrong, Chipman, Dayton, D. Foster, Gunn, Hillhouse, Hindman, Howard, Latimer, Livermore, J. Mason, Morris, Read, Schureman, Tracy, and Wells.

So it passed in the negative.

And the third article being under consideration, a question was moved and put, "Will the Senate advise and consent to the ratification of this article?"

And the yeas and nays being taken, are as follows—yeas 12, nays 15:

YEAS—Messrs. Armstrong, Baldwin, Bloodworth, Brown, Cocke, T. Foster, Franklin, Greene, Gunn, Langdon, S. T. Mason, and Nicholas.

NAYS—Messrs. Chipman, Dayton, D. Foster, Hill-

house, Hindman, Howard, Latimer, Livermore, J. Mason, Morris, Paine, Read, Schureman, Tracy, and Wells.

So it passed in the negative.

The Senate proceeded in the consideration of the convention, so far as to the fourteenth article; and, after debate,

Ordered, That the further consideration thereof be postponed.

FRIDAY, January 9.

The Senate resumed the consideration of the convention made on behalf of the United States with the Republic of France.

On motion, to advise and consent to the adoption of an additional article, to wit:

"It is further agreed, between the said contracting parties, that nothing in this treaty contained, shall be construed or operate contrary to former and existing treaties with other States or Sovereigns."

And, on the question, "Will the Senate advise and consent to the adoption of this article?" it passed unanimously in the affirmative—yeas 27, as follows:

YEAS—Messrs. Anderson, Armstrong, Baldwin, Bloodworth, Brown, Chipman, Cocke, Dayton, D. Foster, Franklin, Greene, Gunn, Hillhouse, Hindman, Howard, Langdon, Latimer, Livermore, S. T. Mason, J. Mason, Morris, Nicholas, Paine, Read, Schureman, Tracy, and Wells.

On motion, to advise and consent to the adoption of the following additional article, to wit:

"The present convention shall be in full force during the term of — years, to be computed from the time of the exchange of the ratifications."

And, after debate,

Ordered, That the further consideration thereof be postponed.

MONDAY, January 12.

The Senate resumed the consideration of the convention made on behalf of the United States with the Republic of France; and

The motion made on the 9th instant, being amended as follows:

The present convention shall be in full force until two years, to be computed from the day of the signature of the preliminary or other articles of peace, which shall conclude the war in which the French nation is now engaged, or for a term not exceeding — years, to be computed from the time of the exchange of the ratifications, whichever event shall first happen.

On the question, "Will the Senate advise and consent to the adoption of this article?" it was determined in the affirmative—yeas 25, nay 1, as follows:

YEAS—Messrs. Anderson, Armstrong, Baldwin, Bingham, Bloodworth, Brown, Chipman, Cocke, Dayton, T. Foster, D. Foster, Franklin, Greene, Hillhouse, Hindman, Howard, Latimer, Livermore, Morris, Nicholas, Paine, Read, Schureman, Tracy, and Wells.

NAY—Mr. Langdon.

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TUESDAY, January 13.

The Senate resumed the consideration of the convention made on behalf of the United States with the Republic of France; and,

On motion,

Ordered, That the further consideration thereof be postponed until Thursday next.

THURSDAY, January 15.

The Senate resumed the consideration of the convention made on behalf of the United States with the Republic of France: Whereupon,

The VICE PRESIDENT reported to the House, that the Senate, as in a Committee of the Whole, had had under their consideration the convention, and had gone through the same, and had agreed to sundry modifications, which he proceeded to state to the House, and again to put questions thereon, severally, for confirmation, as follows:

On the question, whether the Senate would advise and consent to the ratification of the second article of the convention? it passed in the negative—yeas 10, nays 15, as follows:

YEAS—Messrs. Anderson, Baldwin, Bloodworth, Cocke, T. Foster, Franklin, Langdon, Marshall, Nicholas, and Paine.

NAYS—Messrs. Bingham, Chipman, Dayton, D. Foster, Hillhouse, Howard, Latimer, Livermore, J. Mason, Morris, Read, Ross, Schureman, Tracy, and Wells.

On the question, whether the Senate would advise and consent to the ratification of the third article of the convention? A motion was made to amend the article, by adding to the end thereof, these words, "or paid for." Whereupon,

A motion was made to amend the amendment by adding thereto the following words: "And so 'likewise, the merchant ships and vessels which 'have been taken, and definitively condemned on 'the one part and the other, shall be restored or 'paid for.'"

On the question to agree to the amendment to the amendment, it passed in the negative—yeas 8, nays 20, as follows:

YEAS—Messrs. D. Foster, Hillhouse, Howard, Latimer, Livermore, Read, Tracy, and Wells.

NAYS—Messrs. Anderson, Armstrong, Baldwin, Bingham, Bloodworth, Brown, Chipman, Cocke, Dayton, T. Foster, Franklin, Langdon, Marshall, S. T. Mason, J. Mason, Morris, Nicholas, Paine, Ross, and Schureman.

So the amendment to the amendment was lost.

On the question to agree to the original amendment, to wit: to add the words "or paid for;" it passed in the negative—yeas 7, nays 21, as follows:

YEAS—Messrs. Anderson, Armstrong, Brown, Baldwin, Cocke, S. T. Mason, and Nicholas.

NAYS—Messrs. Bingham, Bloodworth, Chipman, Dayton, T. Foster, D. Foster, Franklin, Hillhouse, Howard, Langdon, Latimer, Livermore, Marshall, J. Mason, Morris, Paine, Read, Ross, Schureman, Tracy, and Wells.

So the amendment was lost.

On the question, whether the Senate would ad-

vise and consent to the ratification of the third article? it passed in the negative—yeas 13, nays 16, as follows:

YEAS—Messrs. Anderson, Armstrong, Baldwin, Bloodworth, Brown, Cocke, T. Foster, Franklin, Greene, Langdon, Marshall, S. T. Mason, and Nicholas.

NAYS—Messrs. Bingham, Chipman, Dayton, D. Foster, Hillhouse, Howard, Latimer, Livermore, J. Mason, Morris, Paine, Read, Ross, Schureman, Tracy, and Wells.

On the question, whether the Senate would advise and consent to the adoption of the first additional article, agreed to as in Committee of the Whole, on the 9th instant? it passed unanimously in the affirmative—yeas 28, as follows:

YEAS—Messrs. Anderson, Armstrong, Baldwin, Bingham, Bloodworth, Brown, Chipman, Cocke, Dayton, T. Foster, D. Foster, Franklin, Greene, Hillhouse, Howard, Langdon, Latimer, Livermore, S. T. Mason, J. Mason, Morris, Nicholas, Paine, Read, Ross, Schureman, Tracy, and Wells.

On motion to fill the blank in the second additional article, agreed to as in Committee of the Whole, with the words, "ten years;" it passed in the negative—yeas 9, nays 19, as follows:

YEAS—Messrs. Baldwin, Bloodworth, Brown, Cocke, T. Foster, Franklin, Langdon, S. T. Mason, and Nicholas.

NAYS—Messrs. Anderson, Armstrong, Bingham, Chipman, Dayton, D. Foster, Greene, Hillhouse, Howard, Latimer, Livermore, J. Mason, Morris, Paine, Read, Ross, Schureman, Tracy, and Wells.

On motion to fill the blank with the words "eight years;" it passed unanimously in the affirmative—yeas 28, as follows:

YEAS—Messrs. Anderson, Armstrong, Baldwin, Bingham, Bloodworth, Brown, Chipman, Cocke, Dayton, T. Foster, D. Foster, Franklin, Greene, Hillhouse, Howard, Langdon, Latimer, Livermore, S. T. Mason, J. Mason, Morris, Nicholas, Paine, Read, Ross, Schureman, Tracy, and Wells.

On motion to amend the second additional article, agreed to as in Committee of the Whole, by striking out these words, "until two years, to be 'computed from the day of the signature of the 'preliminary or other articles of peace, which shall 'conclude the war in which the French nation is 'now engaged;'"

And, on the question, "Shall these words stand?" it passed in the negative—yeas 4, nays 23, as follows:

YEAS—Messrs. Livermore, Paine, Read, and Tracy.
NAYS—Messrs. Anderson, Armstrong, Baldwin, Bloodworth, Brown, Chipman, Cocke, Dayton, T. Foster, D. Foster, Franklin, Greene, Hillhouse, Howard, Langdon, Latimer, Marshall, S. T. Mason, J. Mason, Morris, Nicholas, Schureman, and Wells.

And the article having been further amended, by unanimous consent, to read as follows:

"The present convention shall be in full force for the term of eight years, to be computed from the time of the exchange of the ratifications."

On the question, whether the Senate would advise and consent to the said additional article, as

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amended? it passed in the affirmative—yeas 26, nay 1, as follows:

YEAS—Messrs. Anderson, Armstrong, Baldwin, Bloodworth, Brown, Chipman, Cocke, Dayton, T. Foster, D. Foster, Franklin, Greene, Hillhouse, Howard, Langdon, Latimer, Marshall, S. T. Mason, J. Mason, Morris, Nicholas, Paine, Read, Schureman, Tracy, and Wells.

NAY—Mr. Livermore.

Ordered, That Mr. MORRIS, Mr. NICHOLAS, and Mr. DAYTON, be a committee to reduce the several votes on this treaty into the form of a ratification.

MONDAY, January 19.

Mr. MORRIS, from the committee appointed to reduce the several votes on the convention made on behalf of the United States with the Republic of France, into the form of a ratification, made a report, which was read; and

Ordered, That it lie for consideration.

TUESDAY, January 20.

The Senate proceeded to consider the report of the committee appointed to reduce the several votes on the convention made on behalf of the United States with the Republic of France, into the form of a ratification.

On motion to amend the proviso, by inserting after the word "third," the words "and nineteenth:"

It was agreed that the further consideration of the convention, and report thereon, be postponed until to-morrow.

On motion,

Resolved, That the President of the United States be requested to communicate to the Senate such information, (if any such there be,) as may have been received respecting the convention with France, and may, in his opinion, be proper to be so communicated.

Ordered, That the Secretary lay this resolution before the President of the United States.

WEDNESDAY, January 21.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate:

In compliance with your request, signified in your resolution of the twentieth day of this month, I transmit you a report, made to me by the Secretary of State, on the same day; a letter of our late Envoys to him of the 4th of October last; an extract of a letter from our Minister Plenipotentiary in London, to him, of the 22d of November last; and an extract of another letter from the Minister to the Secretary, of the 31st of October last.

The reasoning in the letter of our late Envoys to France is so fully supported by the writers on the law of nations, particularly by Vattel, as well as by his great masters, Grotius and Puffendorf, that nothing is left to be desired to settle the point, that if there be a collision between two treaties, made with two different Powers, the more ancient has the advantage; for no engagement contrary to it can be entered into in the treaty

afterwards made; and if this last be found, in any case, incompatible with the more ancient one, its execution is considered as impossible, because the person promising had not the power of acting contrary to his antecedent engagement. Although our right is very clear to negotiate treaties according to our own ideas of right and justice, honor and good faith, yet it must always be a satisfaction to know that the judgment of other nations, with whom we have connexion, coincide with ours, and that we have no reason to apprehend that any disagreeable questions and discussions are likely to arise. The letters from Mr. King will, therefore, be read by the Senate, with particular satisfaction.

The inconveniences to public officers, and the mischiefs to the public, arising from the publication of the despatches of Ministers abroad, are so numerous, and so obvious, that I request of the Senate that these papers, especially the letters from Mr. King, be considered in close confidence.

JOHN ADAMS.

UNITED STATES, Jan. 21, 1801.

The Message and papers were read, and ordered to lie for consideration.

The Senate resumed the consideration of the report of the committee appointed to reduce the several votes on the convention made on behalf of the United States with the Republic of France, into the form of a ratification, together with the motion made yesterday thereon, to wit: to amend the proviso, by inserting after the word "third," the words "and nineteenth." And, on the question to agree to the insertion of the words, it was determined in the negative—yeas 6, nays 22, as follows:

YEAS—Messrs. Bingham, Hillhouse, Read, Ross, Tracy, and Wells.

NAYS—Messrs. Anderson, Armstrong, Baldwin, Bloodworth, Brown, Chipman, Cocke, Dayton, T. Foster, D. Foster, Franklin, Greene, Howard, Langdon, Latimer, Livermore, S. T. Mason, J. Mason, Morris, Nicholas, Paine, and Schureman.

Ordered, That the further consideration of the convention, and the report of the committee thereon, be postponed until Friday next.

FRIDAY, January 23.

The Senate resumed the consideration of the report of the committee appointed to reduce the several votes on the convention made on behalf of the United States with the Republic of France, into the form of a ratification, which report is as follows:

Resolved by the Senate of the United States, (two-thirds of the Senators present concurring therein,) That they do consent to and advise the ratification of the convention between the French Republic and the United States of America, made at Paris the eighth day of Vendemiaire, of the ninth year of the French Republic, the thirtieth day of September, anno Domini eighteen hundred: *Provided*, The second and third articles be expunged, and that the following articles be added or inserted:

1st. It is understood that nothing in this convention shall be so construed as to operate contrary to any former and existing treaties between either of the parties and any other State or Sovereign.

2d. It is agreed that the present convention shall be in force for the term of eight years from the time of the exchange of the ratifications.

Whereupon, a motion was made to strike out the whole of the proviso; on which it was agreed to divide the question into four parts, viz:

1st. Whether so much as provides that the second article shall be expunged, shall stand?

2d. Whether so much as provides that the third article be expunged, shall stand?

3d. Whether that part shall stand which restrains it from operating against former treaties?

4th. Whether that part shall stand which provides a limitation of time to its duration?

And, on the question on the first division, to wit: Whether so much as provides that the second article shall be expunged, shall stand? it passed in the negative, two-thirds of the Senators present not agreeing thereto—yeas 17, nays 13, as follows:

YEAS—Messrs. Armstrong, Bingham, Chipman, Dayton, D. Foster, Hillhouse, Hindman, Howard, Latimer, J. Mason, Morris, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAYS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, T. Foster, Franklin, Greene, Langdon, Livermore, Marshall, S. T. Mason, and Nicholas.

And, on the question on the second division, to wit: Whether so much as provides that the third article shall be expunged, shall stand? it passed in the negative, two-thirds of the Senators present not agreeing thereto—yeas 16, nays 17, as follows:

YEAS—Messrs. Bingham, Chipman, Dayton, D. Foster, Hillhouse, Hindman, Howard, Latimer, J. Mason, Morris, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAYS—Messrs. Anderson, Armstrong, Baldwin, Bloodworth, Brown, Cocke, T. Foster, Franklin, Greene, Langdon, Livermore, Marshall, S. T. Mason, and Nicholas.

And, on the question on the third division, to wit: Whether that part shall stand which restrains it from operating against former treaties? it passed in the negative, two-thirds of the Senators present not agreeing thereto—yeas 17, nays 13, as follows:

YEAS—Messrs. Bingham, Chipman, Dayton, D. Foster, Greene, Hillhouse, Hindman, Howard, Latimer, J. Mason, Morris, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAYS—Messrs. Anderson, Armstrong, Baldwin, Bloodworth, Brown, Cocke, T. Foster, Franklin, Langdon, Livermore, Marshall, S. T. Mason, and Nicholas.

And, on the question on the fourth division, to wit: Whether that part shall stand which provides a limitation of time to its duration? it was determined in the affirmative—yeas 24, nays 6, as follows:

YEAS—Messrs. Anderson, Armstrong, Bingham, Bloodworth, Chipman, Cocke, Dayton, D. Foster, Franklin, Greene, Hillhouse, Hindman, Howard, Langdon, Latimer, Livermore, J. Mason, Morris, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAYS—Messrs. Baldwin, Brown, T. Foster, Marshall, S. T. Mason, and Nicholas.

And, on the question to agree to the report of

the committee, as amended, it was determined in the negative, two-thirds of the Senators present not agreeing thereto—yeas 16, nays 14, as follows:

YEAS—Messrs. Anderson, Armstrong, Baldwin, Bloodworth, Brown, Chipman, Cocke, T. Foster, Franklin, Greene, Langdon, Livermore, Marshall, S. T. Mason, Nicholas, and Paine.

NAYS—Messrs. Bingham, Dayton, D. Foster, Hillhouse, Hindman, Howard, Latimer, J. Mason, Morris, Read, Ross, Schureman, Tracy, and Wells.

MONDAY, January 26.

On motion, that it be

Resolved, That, whensoever a question on the ratification of a treaty, with modifications, shall have been negatived, a question may be proposed for a simple and unmodified ratification.

It was agreed that this motion should lie until to-morrow.

On motion, to correct the Executive Journal of the 23d instant, (to wit, the last question on which the yeas and nays were called,) to read as follows:

“And, on the question, to agree to the resolution as amended;” and to add, after the yeas and nays, these words: “So this resolution was not agreed to; and, therefore, it was

“*Resolved*, That the Senate do not consent to, and advise the President of the United States to ratify said convention between the French Republic and the United States.

“*Ordered*, That the Secretary lay this resolution before the President of the United States.”

And it was agreed that this motion should lie until to-morrow.

TUESDAY, January 27.

The Senate took into consideration the motion made yesterday, for an additional rule in the conduct of the Executive business; and

It was agreed that this motion, the motion made yesterday for correcting the Executive Journal, of the 23d instant, together with the convention made with the French Republic, should be postponed to Monday next.

On motion, that it be

Resolved, That, when any question may have been decided by the Senate, in which two-thirds of the members present are necessary to carry the affirmative, any member who voted on that side which prevailed in the question, may be at liberty to move for a reconsideration: and a motion for reconsideration shall be decided by a majority of votes.

And it was agreed that the consideration of this motion should be postponed until Monday next.

MONDAY, February 2.

On motion, it was agreed that the consideration of the motion made the 27th ultimo, relative to the proceedings in case of treaties, be postponed until to-morrow.

TUESDAY, February 3.

The Senate resumed the consideration of the

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motion made the 26th of January last, respecting the proceedings in case of treaties, to wit :

Resolved, That, whenever a question on the ratification of a treaty, with modifications, shall have been negative, a question may be proposed for a simple and unmodified ratification.

And it was agreed to postpone the consideration thereof, and to adopt the following rule :

Resolved, That when any question may have been decided by the Senate, in which two-thirds of the members present are necessary to carry the affirmative, any member who voted on that side which prevailed in the question, may be at liberty to move for a reconsideration ; and a motion for reconsideration shall be decided by a majority of votes.

On motion, it was agreed to reconsider the vote passed the 23d of January, on the report of the committee appointed to reduce the several votes on the convention made on behalf of the United States with the French Republic, into the form of a ratification.

On motion, it was agreed to reconsider the first division of the report, to wit :

"Whether so much as provides that the second article shall be expunged, shall stand?"

And, on the question to agree to this part of the report, it passed in the affirmative—yeas 30, nay 1, as follows :

YEAS—Messrs. Anderson, Armstrong, Baldwin, Bingham, Bloodworth, Brown, Chipman, Cocke, Dayton, T. Foster, D. Foster, Franklin, Greene, Gunn, Hillhouse, Hindman, Howard, Langdon, Latimer, Livermore, S. T. Mason, J. Mason, Morris, Nicholas, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAY—Mr. Marshall.

On motion, it was agreed to reconsider the vote of the 23d of January, on the second division of the report, to wit :

"Whether so much as provides that the third article shall be expunged, shall stand?"

And, on the question to agree thereto, it passed in the negative, two-thirds of the Senators present not agreeing thereto—yeas 18, nays 13, as follows :

YEAS—Messrs. Bingham, Chipman, Dayton, D. Foster, Greene, Hillhouse, Hindman, Howard, Latimer, Livermore, J. Mason, Morris, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAYS—Messrs. Anderson, Armstrong, Baldwin, Bloodworth, Brown, Cocke, T. Foster, Franklin, Gunn, Langdon, Marshall, S. T. Mason, and Nicholas.

On the question to agree to the ratification, as follows :

Resolved by the Senate of the United States, (two-thirds of the Senators present concurring therein,) That they do consent to, and advise the ratification of the convention between the French Republic and the United States of America, made at Paris, the eighth day of Vendemaire, of the ninth year of the French Republic, the thirtieth day of September, anno Domini, eighteen hundred : *Provided*, The second article be expunged, and that the following article be added or inserted :

It is agreed, that the present convention shall be in force for the term of eight years, from the time of the exchange of the ratifications.

It passed in the affirmative—yeas 22, nays 9, as follows :

YEAS—Messrs. Anderson, Armstrong, Baldwin, Bloodworth, Brown, Chipman, Cocke, Dayton, T. Foster, Franklin, Greene, Gunn, Hindman, Howard, Langdon, Latimer, Livermore, Marshall, S. T. Mason, Nicholas, Paine, and Schureman.

NAYS—Messrs. Bingham, D. Foster, Hillhouse, J. Mason, Morris, Read, Ross, Tracy, and Wells.

Ordered, That the Secretary lay this resolution before the President of the United States.

FRIDAY, February 20.

The following Message was received from the PRESIDENT OF THE UNITED STATES :

Gentlemen of the Senate :

I request of the Senate, that the letter and journal of our late Envoys to France, and the copy of their instructions, and other documents relative to that negotiation, may be returned to me, or to the office of State.

JOHN ADAMS.

UNITED STATES, Feb. 20, 1801.

The Message was read : Whereupon,

Ordered, That the papers specified in the Message of the President of the United States, of this day, be returned to him. [See Appendix.]

PROCEEDINGS IN THE SENATE,

On the ratification of the Treaty with Prussia.

FRIDAY, December 6, 1799.

The following Message was received from the PRESIDENT OF THE UNITED STATES :

Gentlemen of the Senate :

I lay before you, for your consideration, a Treaty of Amity and Commerce between the United States and the King of Prussia, signed by their Ministers, on the eleventh of July last.

JOHN ADAMS.

UNITED STATES, Dec. 6, 1799.

Ordered, That they lie for consideration, and that the treaty be printed for the use of the Senate.

MONDAY, December 9.

The Senate proceeded to the consideration of the treaty, made on behalf of the United States, with his Majesty, the King of Prussia.

On motion,

Ordered, That it be referred to Mr. BINGHAM, Mr. DEXTER, Mr. WATSON, Mr. READ, and Mr. GOODHUE, to consider and report thereon to the Senate.

TUESDAY, January 28, 1800.

Mr. BINGHAM, from the committee to whom was referred the consideration of the treaty made on behalf of the United States with the King of Prussia, reported that the Senate do advise and consent to the ratification thereof.

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TUESDAY, February 4.

The Senate proceeded to consider the report of the committee on the treaty made on behalf of the United States with the King of Prussia; and, after progress,

Ordered, That the further consideration thereof be postponed until Monday next.

MONDAY, February 10.

The Senate resumed the consideration of the report of the committee to whom was referred the treaty made on behalf of the United States with the King of Prussia; and, after debate,

Ordered, That the further consideration thereof be postponed until to-morrow.

A motion was made, that it be

Resolved, That the President of the United States be requested to lay before the Senate the instructions given to our Minister at the Court of Berlin, respecting the negotiation of the late treaty with Prussia.

And, after debate, the Senate adjourned.

WEDNESDAY, February 12.

The Senate resumed the consideration of the report of the committee on the treaty made on behalf of the United States with the King of Prussia, together with the motion made thereon, on the 10th instant; and, having amended the motion, it was adopted; and, on motion to agree to the motion, it passed in the affirmative—yeas 25, nays 7, as follows:

YEAS—Messrs. Anderson, Baldwin, Bingham, Bloodworth, Brown, Chipman, Cocke, Dexter, Franklin, Greene, Gunn, Langdon, Latimer, Livermore, Marshall, Mason, Nicholas, Paine, Pinckney, Read, Ross, Schureman, Tracy, Watson, and Wells.

NAYS—Messrs. Dayton, Foster, Goodhue, Hillhouse, Howard, Laurance, and Lloyd.

So it was *Resolved*, That the President of the United States be requested to lay before the Senate, the instructions given to our Minister at the Court of Berlin, with the correspondence respecting the negotiation of the late treaty with Prussia.

Ordered, That the Secretary lay this resolution before the President of the United States.

MONDAY, February 17.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate:

I now lay before you the instructions given to our Minister at the Court of Berlin, with the correspondence respecting the negotiation of the treaty with Prussia, according to your request of the 12th of this month.

JOHN ADAMS.

UNITED STATES, Feb. 17, 1800.

The Message and papers accompanying it were read. [See Appendix.]

TUESDAY, February, 18.

The Senate resumed the consideration of the report of the committee on the treaty made on behalf of the United States with the King of Prussia;

And, on the question to adopt the same, it was determined in the affirmative—yeas 26, nays 6, as follows:

YEAS—Messrs. Anderson, Bingham, Bloodworth, Chipman, Cocke, Dayton, Dexter, Foster, Franklin, Goodhue, Greene, Gunn, Hillhouse, Howard, Latimer, Laurance, Livermore, Lloyd, Marshall, Paine, Read, Ross, Schureman, Tracy, Watson, and Wells.

NAYS—Messrs. Baldwin, Brown, Langdon, Mason, Nicholas, and Pinckney.

So it was *Resolved*, (two-thirds of the Senators concurring therein.) That the Senate do consent to, and advise the President of the United States to ratify the Treaty of Amity and Commerce between His Majesty, the King of Prussia, and the United States of America, concluded at Berlin, the eleventh day of July, one thousand seven hundred and ninety-nine.

Ordered, That the Secretary lay this resolution before the President of the United States.

PROCEEDINGS AND DEBATES

OF THE

HOUSE OF REPRESENTATIVES OF THE UNITED STATES,

AT THE SECOND SESSION OF THE SIXTH CONGRESS, BEGUN AT THE CITY OF WASHINGTON, MONDAY, NOVEMBER 17, 1800.

MONDAY, November 17, 1800.

This being the day appointed by law for the commencement of the second session of the sixth Congress, the following members of the House of Representatives appeared, and took their seats in the House, to wit:

From New Hampshire—ABIEL FOSTER, and JONATHAN FREEMAN.

From Massachusetts—WILLIAM SHEPARD, JNO. REED, JOSEPH B. VARNUM, THEODORE SEDGWICK, (*Speaker*), PELEG WADSWORTH, SILAS LEE, and LEMUEL WILLIAMS.

From Connecticut—JOHN DAVENPORT.

From New York—JOHN SMITH, PHILIP VAN CORTLANDT, JONAS PLATT, HENRY GLEN, JOHN THOMPSON, and THEODORUS BAILEY.

From Pennsylvania—MICHAEL LEIB, RICHARD THOMAS, JOSEPH HEISTER, ROBERT BROWN, PETER MUHLENBERG, HENRY WOODS, and JOHN SMILIE.

From Maryland—GEORGE DENT, GEO. BAER, WILLIAM CRAIK, GABRIEL CHRISTIE, JOHN C. THOMAS, and JOSEPH H. NICHOLSON.

From Virginia—LEVEN POWELL, JOHN NICHOLAS, ROBERT PAGE, JOHN DAWSON, ANTHONY NEW, GEORGE JACKSON, and DAVID HOLMES.

From North Carolina—NATHANIEL MACON, RICHARD STANFORD, and WILLIS ALSTON.

From South Carolina—THOMAS SUMTER, and BENJAMIN HUGER.

From Tennessee—WILLIAM C. C. CLAIBORNE.

A new member, to wit: JOHN C. SMITH, returned to serve as a member of this House, from the State of Connecticut, in the room of Jonathan Brace, who has resigned his seat, appeared and produced his credentials.

The SPEAKER observed that it had heretofore been the invariable practice of the House to admit new members to take their seats previously to being sworn, though the Constitution directed directly the reverse. As there was a new member present, he suggested the propriety of administering the oath to him before he took his seat.

Mr. MACON thought such a step premature. He was of opinion that no inconvenience would arise from delaying to administer the oath until a House was formed, and he thought great caution should attend an innovation opposed to all precedent.

Mr. NICHOLAS asked, whether it had heretofore

been usual, in the case of a new House, to swear the members before the choice of a Speaker?

The SPEAKER replied that it had not.

Mr. NICHOLAS said, that though, on first thought, he was favorable to administering the oath at the present time, yet this precedent inclined him to think such a step improper.

The SPEAKER waived the question.

The members present not being sufficient to form a quorum, the SPEAKER adjourned the body till to-morrow.

TUESDAY, November 18.

Several other members, to wit: from Connecticut, ELIZUR GOODRICH, WILLIAM EDMOND, and ROGER GRISWOLD; from New York, WILLIAM COOPER and LUCAS ELMENDORF; from New Jersey, JAMES H. IMLAY and FRANKLIN DAVENPORT; from Pennsylvania, ROBERT WALN; from Maryland, SAMUEL SMITH; from Virginia, HENRY LEE, THOMAS EVANS, and JOHN TRIGG; from North Carolina, RICHARD DOBBS SPAIGHT, and JOSEPH DICKSON; and from Georgia, BENJAMIN TALIAFERRO: appeared and took their seats in the House.

And a quorum, consisting of a majority of the whole number, being present,

The oath to support the Constitution of the United States, as prescribed by the act, entitled "An act to regulate the time and manner of administering certain oaths," was administered by the SPEAKER to JOHN C. SMITH, a new member, who appeared and took his seat in the House yesterday.

Ordered, That a message be sent to the Senate to inform them that a quorum of this House is assembled, and ready to proceed to business; and that the Clerk of this House do go with said message.

Ordered, That a Committee of Commerce and Manufactures be appointed, pursuant to the standing rules and orders of the House.

And a committee was appointed, consisting of Mr. SAMUEL SMITH, Mr. WALN, Mr. FRANKLIN DAVENPORT, Mr. HUGER, Mr. PARKER, Mr. ELIZUR GOODRICH, and Mr. SILAS LEE.

Ordered, That a Committee of Elections be appointed, pursuant to the standing rules and orders of the House.

H. OF R.

Proceedings.

NOVEMBER, 1800.

And a committee was appointed, consisting of Mr. DENT, Mr. LEMUEL WILLIAMS, Mr. EDMOND, Mr. MUHLENBERG, Mr. EVANS, Mr. DICKSON, and Mr. CLAIBORNE.

Ordered, That the Clerk of this House cause the members to be furnished, during the present session, with three newspapers, such as the members, respectively, shall choose, to be delivered at their lodgings.

WEDNESDAY, November 19.

Several other members, to wit: from Vermont, LEWIS R. MORRIS, and from Virginia, JOSIAH PARKER and JOHN RANDOLPH, appeared and took their seats in the House.

There being no quorum in the Senate, the House adjourned until to-morrow morning, eleven o'clock.

THURSDAY, November 20.

Two other members, to wit: from Virginia ABRAM TRIGG, and from Pennsylvania, ANDREW GREGG, appeared and took their seats in the House.

Ordered, That the Clerk of this House have leave to be absent from the service of the House for three weeks.

Resolved, That a Standing Committee of Ways and Means be appointed, whose duty it shall be to take into consideration all such reports of the Treasury Department, and all such propositions relative to the revenue, as may be referred to them by the House; to inquire into the state of public debt; of the revenue, and of the expenditures; and to report, from time, to time their opinion thereon.

Ordered, That Mr. GRISWOLD, Mr. POWELL, Mr. BARTLETT, Mr. NICHOLAS, Mr. IMLAY, Mr. NICHOLSON, Mr. TALIAFERRO, Mr. WOOD, and Mr. SMILIE, be appointed a committee, pursuant to the said resolution.

Ordered, That a Committee of Revisal and Unfinished Business be appointed, pursuant to the standing rules and orders of the House;

And a committee was appointed, of Mr. PLATT, Mr. EVANS, and Mr. ALSTON.

Ordered, That a Committee of Claims be appointed, pursuant to the standing rules and orders of the House;

And a committee was appointed, of Mr. MACON, Mr. JOHN C. SMITH, Mr. MORRIS, Mr. JOHN CHEW THOMAS, Mr. GREGG, Mr. HOLMES, and Mr. BARTLETT.

And then the House adjourned until to-morrow morning, eleven o'clock.

FRIDAY, November 21.

Several other members, to wit: from Massachusetts, GEORGE THATCHER; from New Jersey, JOHN CONDIT, AARON KITCHELL, and JAMES LYNN; from Pennsylvania, JOHN A. HANNA; and from South Carolina, ROBERT GOODLOE HARPER; appeared and took their seats in the House.

The SPEAKER laid before the House a letter from Thomas Claxton, the Doorkeeper, stating

that certain expenditures will be requisite, and further assistance necessary to be allowed, the better to enable him to fulfil the duties of his station; which was read, and ordered to be referred to Mr. NICHOLSON, Mr. POWELL, and Mr. COOPER.

A message from the Senate, informed the House that a quorum of the Senate is assembled, and ready to proceed to business, and that, in the absence of the VICE PRESIDENT, they have elected the Hon. JOHN HOWARD President of the Senate, *pro tempore*.

Resolved, That Mr. GRISWOLD, Mr. SAMUEL SMITH, and Mr. CRAIK, be a committee, on the part of this House, jointly, with such committee as may be appointed on the part of the Senate, to wait on the President of the United States, and notify him that a quorum of the two Houses is assembled, and ready to receive any communications he may think proper to make to them.

Ordered, That the Clerk of this House do acquaint the Senate therewith.

A message from the Senate informed the House that the Senate have appointed a committee jointly, with the committee appointed by this House, to wait on the President of the United States, and notify him that a quorum of the two Houses is assembled, and ready to receive any communications he may think proper to make to them.

Mr. A. FOSTER made a motion for the appointment of two Chaplains of different religious denominations, one to be appointed by each House, to interchange weekly; which was agreed to.

It was afterwards moved by Mr. THATCHER, and agreed to by the House, to strike out those parts of the motion which prescribed that the Chaplains should be of different denominations, and should interchange weekly.

Mr. GRISWOLD, from the joint committee appointed to wait on the President of the United States, and notify him that a quorum of the two Houses is assembled, and ready to receive any communications he may think proper to make to them, reported that the committee had performed that service, and that the President signified to them he would make a communication to both Houses to-morrow at twelve o'clock, in the Senate Chamber.

Mr. NICHOLSON, from the committee to whom was this day referred the letter of Thomas Claxton, Doorkeeper of the House, made a report; which was read and considered: Whereupon,

Resolved, That Thomas Claxton be, and he is hereby, authorized to employ one additional assistant, and two horses, for the purpose of performing such services as are usually required of the Doorkeeper to the House of Representatives; and that the sum of twenty-eight dollars be allowed him weekly, for that purpose, during the session, and for twenty days afterwards.

Resolved, That the said Thomas Claxton be, and he is hereby, authorized to cause to be erected a shelter for the purpose of protecting from the weather, the fire-wood that may be required by the two Houses of Congress; and that he be paid therefor out of the fund appropriated for the contingent expenses of the House.

NOVEMBER, 1800.

President's Speech.

H. OF R.

AMENDMENTS TO THE CONSTITUTION.

Mr. NICHOLAS observed that he had submitted, during the last session, certain propositions to amend the Constitution, as far as it related to the choice of Electors of President and Vice President, and to the election of members of the House of Representatives: but having found that they clashed with the opinions of many members, and not having then maturely considered them himself, he thought it best at that time to waive a conclusive consideration of them. Deeming the object of great importance, and considering the present a fit time to discuss it, he offered two amendments, which he wished to lie on the table for consideration—as follows:

Resolved, by the Senate and House of Representatives of the United States, two-thirds of both Houses concurring, That the following articles be proposed to the Legislatures of the United States, as amendments to the Constitution of the United States:

1. That, after the third day of March, in the year one thousand eight hundred and one, the choice of Electors of President and Vice President shall be made by dividing each State into a number of districts, equal to the number of Electors to be chosen in such State, and by the persons in each of those districts who shall have the qualifications requisite for Electors of the most numerous branch of the Legislature of such State, choosing one Elector, in the manner which the Legislature thereof shall prescribe.

2. That the election of Representatives to Congress, who are to serve after the third day of March, in the year one thousand eight hundred and three, shall be by dividing each State into a number of districts equal to the number of Representatives to which such State shall be entitled, and by the people within each of those districts who shall have the qualifications requisite for Electors of the most numerous branch of the Legislature of such State choosing one Representative, in the manner which the Legislature thereof shall prescribe.

Mr. HARPER was of opinion that the necessary propositions on this subject would require more detail than those just moved; he therefore moved their reference to a select committee.

Ordered, That the said motion be referred to Mr. NICHOLAS, Mr. HARPER, Mr. MACON, Mr. GRISWOLD, and Mr. EVANS.

SATURDAY, November 22.

Two other members, to wit: from North Carolina, ARCHIBALD HENDERSON; and from Virginia, EDWIN GRAY; appeared and took their seats in the House.

PRESIDENT'S SPEECH.

A message from the Senate, informed the House that the Senate are now ready, in the Senate Chamber, to attend this House in receiving the communication from the President of the United States, agreeably to his notification to both Houses yesterday.

Mr. SPEAKER, attended by the members of this House, then withdrew to the Senate Chamber, for the purpose stated in the Senate's message; and, being returned, Mr. SPEAKER laid before the House a copy of the Speech delivered by the

PRESIDENT OF THE UNITED STATES to both Houses of Congress, in the Senate Chamber. [See Senate proceedings of this date, *ante*, page 723.]

Ordered, That the said Speech be committed to a Committee of the whole House immediately.

The House, accordingly, resolved itself into the said Committee; and, after some time spent therein, Mr. SPEAKER resumed the Chair, and Mr. HARPER reported that the Committee had had the said Speech under consideration, and come to a resolution thereupon; which was twice read, and agreed to by the House, as follows:

Resolved, That it is the opinion of this Committee that a respectful Address ought to be presented by the House of Representatives to the President of the United States, in answer to his Speech to both Houses of Congress, at the commencement of the present session, containing assurances that this House will duly attend to the important objects recommended by him to their consideration.

Ordered, That Mr. GRISWOLD, Mr. MACON, Mr. CRAIK, Mr. HENDERSON, and Mr. NICHOLAS, be appointed a committee to prepare an Address, pursuant to the said resolution.

Ordered, That the Speech of the President of the United States be committed to the Committee of the whole House on the state of the Union.

And then the House adjourned.

MONDAY, November 24.

Several other members, to wit: from Massachusetts, HARRISON G. OTIS, and PHANUEL BISHOP; from Virginia, MATTHEW CLAY; and from North Carolina, DAVID STONE; appeared and took their seats in the House.

WILLIAM M'MILLAN, returned to serve as a Representative for the Territory of the United States Northwest of the Ohio, in the room of William Henry Harrison, who has resigned his seat, appeared, produced his credentials, was qualified, and took his seat in the House.

The SPEAKER laid before the House a letter from the Secretary of the Treasury; which was read, and is as follows:

TREASURY DEPARTMENT,
Washington, Nov. 22, 1800.

SIR: I deem it proper, through you, to inform the House of Representatives, that I have obtained the permission of the President of the United States to resign the office of Secretary of the Treasury, at the close of the present year.

I indulge a hope that I may, without presumption, declare, that the different offices with which I have been entrusted since the establishment of this Department, have been executed according to my best skill and judgment, with a conscientious regard to the rights of the public and of individuals, and under an impressive sense of responsibility to the Government. In conformity with these professions, I now freely submit the whole of my conduct to any investigation which the House of Representatives may be pleased to institute.

I cannot omit this only opportunity which may ever be afforded, of expressing the sincere sentiments of gratitude which I now feel and shall ever cultivate, for the many proofs of confidence and indulgence which I have experienced in the course of my official communications

H. OF R.

The Secretary of the Treasury.

NOVEMBER, 1800.

with the Legislature; at the same time I request, that, if the liberty I have now taken to invite their attention to a matter of personal concern, should be deemed in any degree unsuitable, the error may be attributed to a just and a reasonable desire, that my conduct may, on proper evidence, appear to have deserved their approbation.

I have the honor to be, with perfect esteem and deference, sir, your most obedient servant,

OLIVER WOLCOTT.

Hon. THEODORE SEDGWICK,

Speaker of the House of Representatives.

Ordered, That the said letter do lie on the table.

TUESDAY, November 25.

Another member, to wit: JOHN WILKES KITTERA, from Pennsylvania, appeared, was qualified, and took his seat in the House.

A new member, to wit: NATHAN READ, returned to serve as a member of this House from the State of Massachusetts, in the room of Samuel Sewall, who has resigned his seat, appeared, produced his credentials, and took his seat in the House.

Mr. GRISWOLD, from the committee appointed to prepare an Address in answer to the Speech of the President of the United States to both Houses of Congress, made a report; which was read, and ordered to be committed to a Committee of the whole House to-morrow.

On motion of Mr. NICHOLSON,

Resolved, That provision ought to be made by law for extending the privilege of franking to the Delegate, for the time being, from the Territory of the United States Northwest of the Ohio, and for making the same compensation to him, for his attendance, that is allowed to the members of the House of Representatives of the United States.

Ordered, That a bill or bills be brought in, pursuant to the said resolution; and that Mr. NICHOLSON, Mr. PARKER, and Mr. THATCHER, do prepare and bring in the same.

The SPEAKER laid before the House a congratulatory letter from sundry inhabitants of the District of Columbia, on the first assemblage of Congress at the permanent seat of Government; which was read, and ordered to be referred to Mr. JOHN CHEW THOMAS, Mr. EVANS, and Mr. CRAIK.

THE SECRETARY OF THE TREASURY.

Mr. OTIS observed that a letter had been received from the Secretary of the Treasury announcing his intention to resign at the termination of the present year, on which the House had taken no order. Holding a high and responsible office, it appeared the wish of the Secretary, before he retired into private life, to court an examination into the manner in which he had discharged the duties by law assigned him. In his opinion, the highest reward, which a faithful discharge of duty could receive was the approbation of those whose province it was to superintend the management of the public treasure; and believing, as he did, that the Secretary of the Treasury had discharged his official duties with ability and integrity, he was persuaded, that on inquiry, the House would not hesitate to

say so. He wished the letter to be referred at present to a select committee, and promised in the course of a few days to offer to the House such instructions as might guide them in the inquiry which they might deem advisable to make. He forbore to state what those instructions would be, as he had not yet made up his mind on the subject. He concluded with moving a reference to a select committee.

Mr. NICHOLAS had no objection whatever to bestowing on a meritorious officer the approbation of the House, and he was disposed to consider the Secretary of the Treasury as of that character. But he was opposed to the precipitancy of the measure proposed. Even the gentleman, with whom it originated, had not digested in his own mind, the subject, nor had he proposed any specific mode of inquiry. He thought this ought to be done previously to a reference.

Mr. OTIS said, that before he stated the manner in which it would be advisable to make the inquiry, he wished to consult precedents, which he had not had time to do. In the mean time, he thought it best to refer the letter generally. The Secretary had a claim on the earliest attention of the House, in case any inquiry was deemed proper.

Mr. GRISWOLD hoped that an immediate reference would obtain. The committee, on examining the nature of the subject, may report the proper mode of procedure. If it be understood that, on the retirement of every Secretary of the Treasury from office, an inquiry is to be made into his official conduct, it will operate as a general stimulus to the faithful discharge of duty. As to the nature of the instructions to be given to the committee, it will be time enough to discuss them when offered.

Mr. NICHOLAS would not ask the mover of the reference what mode he meant to pursue, because he had informed the House that he did not know; but he would ask the gentleman, who had just spoken, what his views were, as on the line pursued depended altogether the propriety of the measure. Until the objects of inquiry were declared, and the mode of procedure designated, he was averse to taking any steps; for on these essentially depended the eligibility of the measure. It was notorious that the duties of the Secretary of the Treasury were so extensive and complicated, that a general inquiry into them all would not be in the power of a large deliberative body. And unless the greatest care were taken, the proposed examination might result in a disregard of those points which required attention, and a notice of those which required no investigation at all. Thus, under the name of an inquiry, nothing but the form of an investigation would be effected.

Mr. H. LEE thought it would be an act of injustice to the character of the Secretary, and an act of injustice to the country at large, to withhold an agreement to the proposition made by the gentleman from Massachusetts. It was known to the whole world that the most fictitious charges had resounded from one end of the Union to the other. Believing them to be groundless, in his opinion the honor of the country called for an investigation.

NOVEMBER, 1800.

Address to the President.

H. OF R.

If the charges should be sustained, the Secretary ought to receive the censure of the House; but if they should be demonstrated to be false, we owed him our approbation. While he considered him as combining ability, integrity, and honor, he would give him his support; and he would do all in his power to wipe off the suspicions which, in some minds, had attached to his character.

The question was then taken on the reference, and carried in the affirmative, and a committee of seven appointed viz: Mr. OTIS, Mr. NICHOLAS, Mr. GRISWOLD, Mr. NICHOLSON, Mr. WALN, Mr. STONE, and Mr. CRAIK.

The House then went into a Committee of the Whole on the state of the Union, Mr. MORRIS in the Chair. The President's Speech being read by paragraphs, a motion was made to refer a particular part thereof to a committee, and was carried; but on the suggestion of Mr. OTIS that it was unusual to act on the several parts of the Speech, before agreeing to an answer, the Committee rose.

The House being resumed, Mr. H. LEE, after some prefatory remarks, moved the appointment of a committee to report such measures as it may be proper to adopt to carry into effect the resolutions passed last session commemorative of the political services of GEORGE WASHINGTON, to report by bill or otherwise. Ordered to lie on the table.

WEDNESDAY, November 26.

A new member, to wit: LITTLETON W. TAZEWELL, returned to serve as a member of the House for the State of Virginia, in the room of John Marshall, who has resigned his seat, appeared, produced his credentials, was qualified, and took his seat in the House.

A message was received from the Senate, informing the House that they had agreed to the resolution for appointing Chaplains, with an amendment, directing that the Chaplains should be of different denominations; in which amendment the House concurred—yeas 36, nays 34.

Mr. PLATT, from the Committee of Revisal and Unfinished Business, to whom it was referred to examine the Journals of the last session of Congress, and report therefrom all such matters of business as were then depending and undetermined, made a report, in part; which was read, and ordered to lie on the table.

ADDRESS TO THE PRESIDENT.

The House went into a Committee of the Whole on the reply to the President's Speech, which was read by paragraphs, and reported to the House without any amendments, as follows:

TO JOHN ADAMS, *President of the United States*:

SIR: The House of Representatives have received with great respect the communication which you have been pleased to make to the two Houses of Congress, at the commencement of the present session.

The final establishment of the Seat of National Government which has now taken place within the District of Columbia, is an event of no small importance in the political transactions of our country: and we cordially

unite our wishes with yours, that this Territory may be the residence of happiness and virtue.

Nor can we, on this occasion, omit to express a hope, that the spirit which animated the great founder of this city, may descend to future generations, and that the wisdom, magnanimity, and steadiness, which marked the events of his public life, may be imitated in all succeeding ages.

A consideration of those powers which have been vested in Congress over the District of Columbia will not escape our attention; nor shall we forget that, in exercising these powers, a regard must be had to those events which will necessarily attend the Capital of America.

The cheerfulness and regularity with which the officers and soldiers of the Temporary Army have returned to the condition of private citizens, is a testimony clear and conclusive of the purity of those motives which induced them to engage in the public service; and will remain a proof, on all future occasions, that an army of soldiers drawn from the citizens of our country, deserve our confidence and respect.

No subject can be more important than that of the Judiciary, which you have again recommended to our consideration, and it shall receive our early and deliberate attention.

The Constitution of the United States having confided the management of our foreign negotiations to the control of the Executive power, we cheerfully submit to its decisions on this important subject. And in respect to the negotiations now pending with France, we sincerely hope that the final result may prove as fortunate to our country as the most ardent mind can wish.

So long as a predatory war is carried on against our commerce, we should sacrifice the interests and disappoint the expectations of our constituents, should we, for a moment, relax that system of maritime defence, which has resulted in such beneficial effects. At this period, it is confidently believed that few persons can be found within the United States, who do not admit that a Navy, well organized, must constitute the natural and efficient defence of this country against all foreign hostility.

The progress which has been made in the manufacture of arms, leaves no doubt that the public patronage has already placed this country beyond all necessary dependence on foreign markets for an article so indispensable for defence; and gives us assurances that, under the encouragement which Government will continue to extend to this important object, we shall soon rival foreign countries, not only in the number, but in the quality of arms completed from our own manufactories.

Few events could have been more pleasing to our constituents, than that great and rapid increase of revenue which has arisen from permanent taxes. Whilst this event explains the great and increasing resources of our country, it carries along with it a proof which cannot be resisted, that those measures of maritime defence which were calculated to meet our enemy upon the ocean, and which have produced such extensive protection to our commerce, were founded in wisdom and policy. The mind must, in our opinion, be insensible to the plainest truths, which cannot discern the elevated ground on which this policy has placed our country. That national spirit, which alone could vindicate our common rights, has been roused, and those latent energies, which had not been fully known, were unfolded and brought into view, and our fellow-citizens were prepared to meet every event which national honor or national security could render necessary. Nor have its effects been much less important in other respects.

H. OF R.

Credentials of Members.

NOVEMBER, 1800.

Whilst many of the nations of the earth have been impoverished and depopulated by internal commotions and national contests, our internal peace has not been materially impaired; our commerce has extended, under the protection of our infant Navy, to every part of the globe; wealth has flowed without intermission into our seaports, and the labors of the husbandman have been rewarded by a ready market for the productions of the soil.

Be assured, sir, that the various and important subjects recommended to our consideration, shall receive our early and deliberate attention; and, confident of your co-operation in every measure which may be calculated to promote the general interests, we shall endeavor, on our part, to testify, by our industry and despatch, the zeal and sincerity with which we regard the public good.

The report of the Committee was immediately taken up, and, on the question to agree to the Address,

Mr. NICHOLAS rose and observed that he regretted the introduction of political matter, calculated to produce discord and division. He was averse to the House spending time in propounding political theories, as no good, but much mischief, might flow from such a procedure. Had no other topics or sentiments been alluded to than those contained in the President's Speech, there would have been much less division in the House than was to be expected from the insertion of extraneous ideas. He had no intention, however, to enter into a detail of the objections he entertained to the Address. For the reasons he had assigned, and others which he felt, he thought the style of the Address not only unnecessary, but worse than useless. He concluded by desiring the yeas and nays to be taken.

The question being taken, was carried in the affirmative—yeas 36, nays 32, as follows:

YEAS—Bailey Bartlett, William Cooper, Wm. Craik, John Davenport, Franklin Davenport, George Dent, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Elizur Goodrich, Roger Griswold, Archibald Henderson, Benjamin Huger, Jas. H. Inlay, Henry Lee, Silas Lee, James Linn, Lewis R. Morris, Harrison G. Otis, Robert Page, Josiah Parker, Jonas Platt, Leven Powell, John Reed, Nathan Read, Wm. Shepard, John C. Smith, Richard Dobbs Spaight, George Thatcher, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

NAYS—Phanuel Bishop, Robert Brown, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, John Dawson, Lucas Elmendorf, Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, George Jackson, Aaron Kitchell, Michael Leib, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, John Randolph, John Smilie, John Smith, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, and Jos. B. Varnum.

Resolved, That Mr. SPEAKER, attended by the House, do present the said Address; and that Mr. GRISWOLD, Mr. MACON, and Mr. CRAIK, be a committee to wait on the President to know when and where it will be convenient for him to receive the same.

CREDENTIALS OF MEMBERS.

Mr. DENT, from the Committee of Elections, to whom were referred the certificates and other credentials of the members returned to serve in this House, made a report, in part, which was read, as follows:

"That they have examined the credentials of several members, claiming seats in this House, in consequence of resignations which have taken place, and find that, by the certificate of the Governor of Massachusetts, dated the eleventh day of November, eighteen hundred, under the seal of the State, Nathan Read, (of Danvers,) is duly elected, in the place of Samuel Sewall; that by the certificate of the Governor of Connecticut, bearing date twentieth day of October, eighteen hundred, with the seal of the State annexed, John Cotton Smith is duly elected, in the place of Jonathan Brace; and that, by the certificate of the Deputy Sheriff of Henrico, the Sheriff of Hanover, the Sheriff of New Kent, the Deputy Sheriff of Charles City, and the Sheriff of James City counties, composing one entire district in the Commonwealth of Virginia, under their respective seals, Lyttleton Waller Tazewell is duly elected, in the place of John Marshall.

"The committee also find, by an authenticated certificate, signed by the Speaker of the House of Representatives, and the President of the Legislative Council of the Territory Northwest of the river Ohio, dated the seventh day of November, eighteen hundred, that William McMillan is duly elected to represent the said Territory, in the place of William Henry Harrison.

"Whereupon, the committee are of opinion that Nathan Read, (of Danvers,) John Cotton Smith, and Lyttleton Waller Tazewell, are entitled to take their seats in the House, in the place of Samuel Sewall, Jonathan Brace, and John Marshall, who have resigned; and that William McMillan is entitled to take his seat therein, with the right of debating, but not of voting in the place of William Henry Harrison, who has resigned."

Ordered, That the said report do lie on the table.

On motion it was *Resolved*, That a committee be appointed to inquire whether any, and what, amendments are necessary to be made in the acts establishing a post office and post roads within the United States; and that the said committee have power to report by bill or otherwise.

Ordered, That Mr. THATCHER, Mr. WOODS, Mr. CLAIBORNE, Mr. DICKSON, and Mr. NEW, be appointed a committee, pursuant to the said resolution.

On motion, of Mr. LEE, it was *Resolved*, That a committee be appointed to report, by bill or otherwise, such further measures as may be deemed expedient to carry into execution the resolutions of Congress, passed the last session, in commemoration of the great events of the military and political life of GEORGE WASHINGTON.

Ordered, That Mr. HENRY LEE, Mr. ELIZUR GOODRICH, Mr. HUGER, Mr. POWELL, Mr. FOSTER, Mr. SPAIGHT, and Mr. BARTLETT, be appointed a committee, pursuant to the said resolution.

Resolved, That this House, will, to-morrow proceed, by ballot, to the appointment of a Chaplain to Congress, on the part of this House.

NOVEMBER, 1800.

The President's Speech.

H. OF R.

THURSDAY, November 27.

Another member, to wit: JOHN BIRD, from New York, appeared and took his seat in the House.

Mr. NICHOLSON, from the committee appointed, presented a bill extending the privilege of franking letters to the Delegate from the Territory of the United States Northwest of the river Ohio, and making provision for his compensation; which was twice read, and committed to a Committee of the whole House to-morrow.

ANSWER TO THE ADDRESS.

The SPEAKER, attended by the House, then withdrew to the house of the PRESIDENT OF THE UNITED STATES, and there presented to him the Address of this House in answer to his Speech to both Houses of Congress; to which the PRESIDENT made the following reply:

*Mr. Speaker, and Gentlemen
of the House of Representatives:*

Compelled by the habits of a long life, as well as by all the principles of society and government which I could ever understand and believe, to consider the great body of the people as the source of all legitimate authority, no less than all efficient power, it is impossible for me to receive this Address from the immediate Representatives of the American people, at this time, and in this place, without emotions which it would be improper to express, if any language could convey them.

May the spirit which animated the great founder of this city descend to future generations; and may the wisdom, magnanimity, and steadiness, which marked the events of his public life, be imitated in all succeeding ages.

I thank you, gentlemen, for your assurance that the Judiciary System shall receive your deliberate attention.

With you, gentlemen, I sincerely hope that the final result of the negotiations now pending with France, may prove as fortunate to our country, as they have been commenced with sincerity, and prosecuted with deliberation and caution. With you, I cordially agree, that, so long as a predatory war is carried on against our commerce, we should sacrifice the interests and disappoint the expectations of our constituents, should we for a moment relax that system of maritime defence, which has resulted in such beneficial effects. With you, I confidently believe that few persons can be found within the United States, who do not admit that a Navy, well organized, must constitute the natural and efficient defence of this country, against all foreign hostility.

Those who recollect the distress and danger to this country, in former periods, from the want of arms, must exult in the assurance, from their Representatives, that we shall soon rival foreign countries, not only in the number, but in the quality of arms, completed from our own manufactories.

With you, gentlemen, I fully agree, that the great increase of revenue is a proof that the measures of maritime defence were founded in wisdom. This policy has raised us in the esteem of foreign nations. That national spirit and those latent energies which had not been and are not yet fully known to any, were not entirely forgotten by those who had lived long enough to see, in former times, their operation, and some of their effects. Our fellow-citizens were undoubtedly prepared to meet every event which national honor or national

security could render necessary. These, it is to be hoped, are secured at the cheapest and easiest rate; if not, they will be secured at more expense.

I thank you, gentlemen, for your assurance that the various subjects recommended to your consideration, shall relieve your deliberate attention. No further evidence is wanting to convince me of the zeal and sincerity with which the House of Representatives regard the public good.

I pray you, gentlemen, to accept of my best wishes for your health and happiness.

JOHN ADAMS.

WASHINGTON, Nov. 27, 1800.

The members then returned to their Chamber.

A message from the Senate informed the House that the Senate have proceeded to the appointment of a Chaplain to Congress, on their part, and the Right Reverend Bishop CLAGETT has been duly elected.

The House proceeded, by ballot, to the appointment of a Chaplain to Congress on the part of this House; and, upon examining the ballots, a majority of the votes of the whole House was found in favor of the Reverend THOMAS LYELL.

Ordered, That the Clerk of this House do acquaint the Senate therewith.

FRIDAY, November 28.

Another member, to wit: ABRAHAM NOTT, from South Carolina, appeared, and took his seat in the House.

The SPEAKER laid before the House a report of the Commissioners of the Sinking Fund, enclosing a statement of the proceedings which have been authorized by the Board, since their report of the eleventh of December, one thousand seven hundred and ninety-nine; which was read, and ordered to lie on the table.

The SPEAKER laid before the House a letter from Oliver Pollock, praying the attention of the House to his petitions, presented at former sessions, for compensation due him for services rendered to the United States during the late war; which was read, and ordered to lie on the table.

The House then resolved itself into a Committee of the Whole on the bill extending the privilege of franking letters to the Delegate from the Territory of the United States Northwest of the river Ohio, and making provision for his compensation; and, after some time spent therein, Mr. MORRIS reported that the Committee had had the said bill under consideration, and made no amendment thereto.

The bill was then ordered to be engrossed, and read the third time to day.

THE PRESIDENT'S SPEECH.

The House resolved itself into a Committee of the Whole on the state of the Union; and, after some time spent therein, the SPEAKER resumed the Chair, and Mr. MORRIS reported that the Committee had had the state of the Union under consideration, and come to several resolutions thereupon; which he delivered in at the Clerk's table, where the same were severally twice read, and agreed to by the House, as follows:

H. OF R.

Examination of the Treasury.

DECEMBER, 1800.

1. *Resolved*, That so much of the President's Speech as respects the District of Columbia, ought to be referred to a select committee; and that the said committee be authorized to report by bill or otherwise.

2. *Resolved*, That so much of the President's Speech as respects the national administration of justice, ought to be referred to a select committee; and that the said committee be authorized to report by bill or otherwise.

3. *Resolved*, That so much of the President's Speech as respects seasonable and systematic arrangements, proportioned to our national resources, for a Navy adapted to defensive purposes, ought to be referred to a select committee; and that the said committee be authorized to report by bill or otherwise.

4. *Resolved*, That so much of the President's Speech as respects the fortifications of some of the principal ports and harbors of the United States, ought to be referred to a select committee; and that the said committee be authorized to report by bill or otherwise.

5. *Resolved*, That so much of the President's Speech as respects the manufacture of arms within the United States, ought to be referred to a select committee; and that the said committee be authorized to report by bill or otherwise.

Ordered, That Mr. HENRY LEE, Mr. EVANS, Mr. CRAIK, Mr. BIRD, and Mr. SILAS LEE, be appointed a committee, pursuant to the first resolution.

Ordered, That Mr. GRISWOLD, Mr. NICHOLAS, Mr. KITTERA, Mr. NICHOLSON, and Mr. HENDERSON, be appointed a committee, pursuant to the second resolution.

Ordered, That Mr. PARKER, Mr. OTIS, Mr. SPAIGHT, Mr. JOHN DAVENPORT, Mr. NOTT, Mr. TALIAFERRO, and Mr. HOLMES, be appointed a committee, pursuant to the third resolution.

Ordered, That Mr. OTIS, Mr. NICHOLAS, Mr. EDMOND, Mr. FOSTER, and Mr. ALSTON, be appointed a committee, pursuant to the fourth resolution.

Ordered, That Mr. WALN, Mr. SHEPARD, Mr. COOPER, Mr. PAGE, and Mr. WOODS, be appointed a committee, pursuant to the fifth resolution.

CANADIAN REFUGEES.

Resolved, That a committee be appointed to prepare and bring in a bill for regulating the grants of land appropriated for the refugees from the British Provinces of Canada and Nova Scotia.

Ordered, That Mr. NEW, Mr. EDMOND, Mr. STONE, Mr. SILAS LEE, and Mr. RICHARD THOMAS, be appointed a committee, pursuant to the said resolution.

MONDAY, December 1.

Several other members, to wit: from Maryland, JOHN DENNIS; from Virginia, JOSEPH EGGLESTON; from North Carolina, WILLIAM H. HILL; and from Georgia, JAMES JONES; appeared and took their seats in the House.

An engrossed bill extending the privilege of franking letters to the Delegate from the Territory of the United States Northwest of the river Ohio, and making provision for his compensation, was read the third time and passed.

TUESDAY, December 2.

The SPEAKER laid before the House a letter from the Secretary of the Navy, accompanying a report of the Commissioners of the fund for navy pensions and half-pay, pursuant to the act for the better government of the Navy of the United States; which was read, and ordered to lie on the table.

Mr. LEE, from the committee appointed for that purpose, reported a bill for erecting a Mausoleum to GEORGE WASHINGTON, which was read twice and referred to a Committee of the Whole tomorrow.

The bill directs that the mausoleum shall be of marble, to be erected in the City of Washington, under the superintendence of the four Secretaries.

TRADE WITH THE INDIANS.

Mr. CLAIBORNE stated that during the last session a committee was appointed to inquire into the state of the trade, authorized by law, with the Indian nations. That committee had reported unfavorably to the trade. But desirous of maturing with deliberation a new plan before the old one was supplanted, they had reported a bill for continuing the existing system for one year. The bill had passed the House of Representatives unanimously, but had been postponed by the Senate to this session.

For his own part he was altogether unfavorable to the trade; for he believed that it answered no good purpose in relation to the Indians, while it was a loss to the United States. It was, however, proper that some legislative provision should be made immediately. The old law, regulating the officers who had the superintendence of the trade, had expired, and they were of consequence under no legal control.

He, therefore, moved the appointment of a committee, to inquire into the expediency of carrying on any further trade on a capital furnished by the United States, to report by bill or otherwise; which motion being read a second time, was agreed to, and a committee of three appointed.

EXAMINATION OF THE TREASURY.

Mr. OTIS observed, that at the time he moved for the reference of the letter from the Secretary of the Treasury, he was of opinion that it might be necessary to give particular instructions to the committee to regulate their measures in the contemplated investigation. But, on further reflection, he thought it would be best to leave the committee at large to make the investigation in such way as they, in the progress of their inquiries, should consider most satisfactory. Objects, not foreseen, might occur, requiring different modes of procedure from any now agreed upon. Such was the opinion of the committee, who had directed him to move an instruction to the committee to examine into the state of the Treasury, the mode of conducting business therein, the expenditures, of the public money, and to report such facts and statements as will conduce to a full and satisfac-

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Reporting the Debates.

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tory understanding of the state of the Treasury, since the appointment of the Secretary.

The motion was agreed to.

WEDNESDAY, December 3.

Ordered, That the report of the Committee of Claims on the petition of Oliver Pollock, made the eighteenth of April last, together with his letter presented the twenty-eighth ultimo, be referred to the Committee of Claims.

THURSDAY, December 4.

Another member, to wit: SAMUEL GOODE, from Virginia, appeared, and took his seat in the House.

The SPEAKER informed the House that the Chaplains had proposed, if agreeable to the House, to hold Divine service every Sunday in their Chamber.

REPORTING THE DEBATES.

Mr. HILL presented a memorial from Samuel Harrison Smith and Thomas Carpenter, representing that they had undertaken to report the debates of the House; that, contrary to their expectation—on the suggestion of inconvenience to the members—they had not received permission to occupy a situation within the bar, without which they were unable to state with fidelity the proceedings and debates; and praying the permission of the House to be admitted within the bar.

As soon as the memorial was read, the SPEAKER rose and observed, that feeling himself responsible to the House for the faithful discharge of the duties attached to his situation, he thought it proper to state the line of conduct he had pursued in this business. He stated that he was applied to by letter on the first day of the session, by Mr. Stewart, requesting permission to occupy a place within the bar; that he immediately took the request into consideration; that, in the mean time, similar requests were made by other individuals; that, on observing the structure of the room and the arrangement of the furniture, it at once appeared to him inconsistent with the dignity of the House or the convenience of the members to grant the permission asked; that the area was too small to afford the necessary accommodation; that the position considered as the least inconvenient to the House was within the window-frames; that, in his opinion, this position would not be agreeable to the stenographers, as the view of the members on the opposite side of the House from either window would be obstructed; that, if a position was assigned in any other part of the House, the stenographers would be between the Chair and some of the members, which would render the preservation of order impossible; that he had stated these reasons, and informed the applicants that, if agreeable to them, he would assign a place in the gallery, which should be set apart for their exclusive use; and that he considered that to be the most eligible position. He concluded by repeating, that it was, in his opinion, absolutely impossible to preserve the dignity of the House, and to maintain the convenience of the members, if

the requested permission were given. Such was his first, his invariable opinion—it was unaltered—it was still the same.

Mr. NICHOLAS said, that the members of the House must feel a common interest in having the debates taken with fidelity. If the debates were taken, they ought to be taken with precision. Those who took them should not be debarred from the best means of hearing with accuracy. For his part he could not discern the inconvenience alleged to exist. The desk, which it was necessary to admit within the bar, would not project beyond the window-frame; and as to the remark of the Speaker respecting the inconvenience of such a position to the stenographers, it was easily obviated by the consideration, that any inaccuracy which might occur in the report of the individual who took them on one side of the Chair, would be checked by the reporter situated on the other side.

He thought the desire of the memorialists ought not to be passed over lightly. They had a right to the best place the House could assign. He moved the reference of the memorial to a select committee.

Mr. HILL observed that as the memorial contained no facts that required the investigation of a committee, and as the House possessed all the information that could guide their decision, he did not discern the propriety of the proposed reference. He had prepared a resolution, which, if the motion for a reference were withdrawn, he would offer.

Mr. NICHOLAS immediately withdrew his motion. Mr. HILL then proposed a resolution substantially to this effect: that Mr. Speaker be requested to assign places within the bar for the stenographers.

Mr. OTIS was sorry the gentleman from Virginia had withdrawn his motion to refer the memorial to a select committee, as he thought the subject required examination before a decision was made. There appeared to him much weight in the ideas of the Speaker. Grant, for the sake of argument, that four persons may be accommodated at the windows. Might there not be other applications? Was any gentleman prepared to say how many would be made? If the permission were once granted to one, would it not be necessary to extend it to all? Would the House suffer any individual to have an exclusive benefit where-by a stamp of authenticity would be fixed on his statements.

This business, in one shape or other, had often been before the House, and all conversation respecting it had always issued in leaving it to the regulation of the Speaker. This appeared to him the best termination it could receive.

From the attention he had paid to the debates reported this session, he believed them to be better and more accurately taken, than they had been on former occasions. This to him was a proof that the present situation of the stenographers was a good one. He acknowledged, at the same time, that the ability with which the debates were taken entitled those who took them to the best accommodation the House could afford. He concluded

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with renewing the motion for a reference to a select committee.

Mr. NICHOLAS replied, that no debate had taken place which could test the accuracy of the stenographers. From his own experience he pronounced the situation at present occupied utterly inconvenient. What he had some days since remarked had been misstated. He well knew that this did not arise from the inability of the reporter to state correctly what occurred. He knew him to be intelligent, and fully capable of conceiving and conveying the meaning of any remarks which could be made in that House. But it arose from his situation, from which it was impossible to hear distinctly.

He declared the objections of Mr. OTIS, in relation to the number of applicants, perfectly chimerical. Did the gentleman suppose that the number would be so great as to make a demand on their seats? As well might he imagine this, as that they would swell to the ideal compass he had given them. It was known to the House, that at Philadelphia the number was small; seldom more than two, and often not more than one persevered during the session, though a greater number appeared on its earliest days. Fact and experience, therefore, demonstrated the fallacy of the danger apprehended from this source.

The question was then taken on the reference to a select committee, and carried, ayes 42, noes 34.

And a committee of five, viz: Messrs, OTIS, NICHOLAS, PLATT, MORRIS, and HILL, was appointed.

FRIDAY, December 5.

Several members, to wit: from North Carolina, WILLIAM BARRY GROVE; from Kentucky, THOMAS T. DAVIS; and from Rhode Island, CHRISTOPHER G. CHAMPLIN, appeared and took their seats in the House.

A petition of Thomas Jenkins and Sons was presented to the House, praying an American register for a vessel, the property of the petitioners; referred to the Committee of Commerce and Manufactures.

Mr. MACON, from the Committee on Claims, to whom was referred, on the third instant, a letter from Oliver Pollock, together with his former petitions, made a report; which was read, and ordered to lie on the table.

MAUSOLEUM TO WASHINGTON.

Mr. H. LEE moved that the House do go into a Committee of the Whole on the bill "directing the erection of a mausoleum to GEORGE WASHINGTON."

On which motion the House divided—yeas 36, nays 34. Mr. MORRIS took the Chair.

The CHAIRMAN, after reading the bill through, proceeded to read it by paragraphs. The first section is as follows:

"SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That a mausoleum of American granite and marble, in a pyramidal form, one hundred feet square at the base, and of a proportionate height, shall be erected, in testimony of the love and gratitude

of the citizens of the United States, to GEORGE WASHINGTON."

Mr. ALSTON moved an amendment to the first section, which was, in substance, "that a monument of marble be erected in the Capitol, at the City of Washington, commemorative of the great events of the military and political life of GEORGE WASHINGTON."

Mr. H. LEE said, that during the last session the House, after long debate, had declared itself in favor of a mausoleum, and that as no reasons had been assigned for a change of opinion, he hoped they would persevere in the deliberate result of their judgment.

Mr. OTIS was ready to acknowledge himself unacquainted with many of the circumstances embraced by the subject. He therefore wished additional information to that which he had received. His present opinion was, that a mausoleum was preferable to a monument. He acknowledged that, in forming this opinion, he had felt great deference for the judgment of the committee which had recommended it. It was undoubtedly a subject but little understood. The formation of a proper decision depended upon a concurrence of several circumstances—upon a comparison of the expense with the value of the object to be accomplished. Besides this, it had many peculiar features not comprehended by every gentleman. He thought these considerations sufficient to induce the House to decline voting for the amendment, whereby the plan of the committee, who had maturely considered the subject in all its relations, would be frustrated, unless stronger reasons were assigned than he had yet heard.

Mr. NICHOLAS observed, that the bill directed the erection of a mausoleum of certain dimensions, to ascertain the expense of which an estimate had been made. But that estimate was not satisfactory. It was made without information. The sum to be expended was not fixed. It might vastly exceed any sum now contemplated. The mausoleum was to consist of a huge, ugly mass of stones heaped upon one another, to raise which a heavy and useless expense would be incurred. And what was the object? It was to perpetuate the memory of GEORGE WASHINGTON. Was the memory of that great man to be perpetuated by a heap of large inanimate objects? The best way in which his fame could be preserved would be by bringing his ashes from the place where they now lie, by depositing them in the Capitol at the will of the nation, in interring them in such a manner as had never before been done, in placing over them a plain tablet, on which every man could write what his heart dictated. This, and this only, was the basis of his fame. It was not to be blazoned by figures or representations of any other sort. It consisted in the undecaying recollection of his virtues. It must live in the national feeling, and this called not for useless expense. Twenty thousand dollars was as competent to its expression as two hundred thousand. He hoped, therefore, the amendment would be adopted, and that the terms which related to military and po-

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litical achievements would be omitted. He hoped a plain monument would be erected.

His preference of a monument to a mausoleum arose not from any indisposition to celebrate the memory of our American hero. He could say as much in his praise as any man. Neither a committee of Congress nor the four Secretaries, on whom the bill devolved the superintendence, felt more zeal for the character of this great man than he did.

Mr. NORR did not rise to consume the time of the Committee by going at large into an examination of the subject, but to explain the reasons for the vote he meant to give. He had, last session, co-operated most cheerfully in all those measures which had been pursued to express the national sensibility at the loss of that great and immortal character. In the feelings of gratitude which his services excited, no man could outdo him. Among other measures, he had been friendly to the erection of a mausoleum. But, on more reflection, he had changed his opinion. He did not believe that a huge mass of stones would add to the reputation of WASHINGTON, or be more expressive of national affection, than a marble monument. This being the case, he preferred the latter, because it was the least expensive.

Mr. GRISWOLD hoped the amendment would not prevail. It was the object of the bill to raise a monument which should last for ages, and which should be a perpetual memorial of the gratitude of America. Such would not be the case if the proposition made by the gentleman from North Carolina should be adopted. The monument proposed by him might be broken and destroyed by a lawless mob or by a set of school-boys. For his part, he would not consent to raise such a monument to the memory of a man who had deserved so well of his country.

The bill proposed the erection of a monument that would stand unimpaired for ages. It is true that it will not perpetuate the fame of WASHINGTON; his fame required nothing which we could do to give it perpetuity; but it will perpetuate the gratitude of the country. It would be a structure that will command respect; it will be pointed to our children; they will enter it with reverence, as the spot in which the ashes of this great man are deposited.

It was undoubtedly a subject of sentiment; and subjects of such a kind must be guided by feeling. Various opinions, therefore, may naturally be expected. His opinion was, that the national sentiment called for the erection of a structure correspondent in size to the character of the man to whom it was raised.

The general outlines of the bill might now be adopted; and if there existed a variance of opinion, the subordinate members of it might be modified.

Mr. H. LEE said, if it were the wish of gentlemen to avoid the adoption of measures commemorative of the talents of the great man we have lost, it would be candid to tell us so at once. For his part, he saw little difference between the adoption of the amendment and the rejection of every

plan proposed that was adequate to the occasion. Sir, said Mr. L., there is not a rich man in Europe who loses his mistress that does not raise a trophy to her memory; and shall it be said that we, who have sustained the most irreparable loss in the death of our Chief—shall it be said that we refuse to pay him those honors which are lavished so liberally upon such inferior objects? If you do not mean to come forward on the occasion, say so. Then we shall understand the reasons of opposition to the ground taken by this House last session. As yet no reasons had been assigned for abandoning it. We then declared that we would act. We exhibited a spirit worthy of the immortal WASHINGTON—worthy of the distinguished character of this House.

But should this honorable spirit, kindled by an enthusiasm in the virtues and talents of our departed benefactor, subside and be chilled by the adoption of the proposed amendment, he would condole with the House, and would rather they would be silent forever than disgrace themselves and their country by so subordinate an act.

It is true, sir, that the celebrity and the glory of WASHINGTON hang not on our plaudits. History will transmit to posterity the lustre of his fame, glittering with untarnished purity. It is not in our power either to increase or diminish it. But, sir, we may imitate his virtues and his great example. We are deeply interested in holding them forth as illustrious models to our sons. Is there, then, I ask you, any other mode for perpetuating the memory of such transcendent virtues so strong, so impressive, as that which we propose? The grandeur of the pile we wish to raise will impress a sublime awe in all who behold it. It will survive the present generation. It will receive the homage of our children's children; and they will learn that the truest way to gain honor amidst a free people is to be useful, to be virtuous.

This will not be the act of an individual. It will be the act of a Government expressing the will of a great nation. Seize then, I pray you, seize with rapture, the occasion that is now presented, thankful to the Supreme Disposer of Events for giving you an opportunity of rearing some future WASHINGTON. This is a great object; frown, then, upon all the little efforts made to defeat it.

It is certainly true, that if you erect a mausoleum, you must expend some public money. But are you not the guardians of the public treasure? Does not the selection of the best objects to which to appropriate it devolve on you? And can there be a greater, a more patriotic purpose than this? Is it not your great duty to promote the public good; and can that be more completely promoted in any other way? The sum asked is seventy thousand dollars. Who can show me in what other manner the same good can be effected by so small a sum?

But it is said that the bill vests a discretion in the Secretaries, and they may exceed the estimate. But, sir, are the Secretaries unworthy of confidence? Do not we know that we may safely rely upon them? Besides, if thought expedient, the

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expenditure may be limited. Thus, surely, without prodigality on the one hand or parsimony on the other, you may do honor to yourselves and your country.

Mr. Macon did not pretend to know much about that kind of things proposed by the bill; but he believed, from the little he did know, that such a thing had not been attempted for a thousand years. The expense attending the proposed measure had been treated lightly. For himself, he was not disposed to consider seventy thousand dollars a trifling sum. He thought it a great sum, and believed every man in the country thought as he did. In forming his idea of any particular sum, he was not carried away by the visionary notions of speculation; he looked at the labor it required to produce it; and he well knew how hardly earned was the money from which this enormous sum must proceed.

He further believed that no man could tell how much the mausoleum would cost. The seventy thousand dollars was only a beginning; and when the object was once begun, experience tells us that we must finish it at all events, let it cost what it might. The base was fixed at a hundred feet. Why not decide its other proportions? Did not the silence of the bill on this point show the ignorance of gentlemen? All was doubt. What strengthened his opinion of the total want of information, was the exhibition last session of two estimates: one of which was predicated on a base of sixty feet, and required sixty-seven thousand dollars; the other was predicated on a base of one hundred feet, making the structure nearly three times as large, and required only seventy thousand dollars. Could this be correct? Both estimates certainly could not be true. The probability was that neither could be depended upon.

For what purpose was this great mass to be raised? He saw no good purpose likely to be answered by it under the sun. Can stones show gratitude? If the nation wished to show its gratitude, let them do it by making a history of the life of WASHINGTON a school-book. Our children then will learn and imitate his virtues. This will be rendering the highest tribute to his fame, by making it the instrument of enlightening the mind and improving the heart.

While there are such rational modes of distinguishing the memory of WASHINGTON, can Congress so far forget the interest of the nation; can they so far forget their own duty, as to expend millions in acts of useless and pernicious ostentation? Since the invention of types, monuments are good for nothing. The records of history will remain long after their decay or destruction.

We are told that the best mode of perpetuating the memory of WASHINGTON is to erect a mausoleum. I have heard, said Mr. M., of Aristides, I have heard of Hampden, but I have never heard of monuments raised to their memories. Yet their virtues shine as bright now as they did while they lived. I have heard of a place called Westminster Abbey, full of the monuments of Kings; yet, notwithstanding these grand memorials, I have heard very little of them after they left this

world, and I question very much whether any man, let him have heard what he may, if he were to go there could tell one of them from the other.

But, it is said, that the monument, proposed by the amendment, may be thrown down and destroyed by mobs or school-boys. God forbid that this should ever be the case! I do not believe, said Mr. M., this to be possible. If it were made of glass, frail as it is, it would be safe; all would revere, all would respect it.

The House is told by one gentleman, who advocates the mausoleum, that a rich man in Europe cannot lose his mistress without raising a monument to her memory. Was the gentleman serious when he made this remark? Would he place the memory of WASHINGTON on a footing with that of a rich man's mistress? Better, sir, said, Mr. M., far better would it be, more honorable to the Government, and more conformable to the wish of our deceased friend, to devote the seventy thousand dollars, designed for a mausoleum, to the education of the poor. Then, indeed, we might flatter ourselves with having extended the empire of his virtues, by making those understand and imitate them, who, uninstructed, could not comprehend them.

If he thought that by raising a magnificent monument to WASHINGTON, he could give duration to his fame, or carry his name into a single country which it had not yet reached, he would give the measure his support. But no such effect would be produced. It might indeed adorn this city; and that was the only plausible argument in favor of it.

Before gentlemen act in this business, let them look to Egypt; there they will behold precedents in profusion; men made gods, and statues and monuments and mausolea covering the whole face of the country; but where will they find the virtues or the talents of the men they were meant to commemorate? Now is the time to make a stand against this monument mania. WASHINGTON is admired and beloved by all. No one can be charged with a desire to diminish his fame by opposing a useless expenditure of money. The precedent we now establish will be auspicious to our future measures. If we decline raising a mausoleum to WASHINGTON, no man who succeeds him, can expect one reared to his memory. On the other hand, if we now raise one to WASHINGTON, every pretender to greatness will aim at the same distinction.

Mr. MAcon concluded by declaring himself hostile to the bill, and friendly to the amendment, because it proposed a plan that was more rational, more economical, and more conformable to the resolve of the old Congress, than that contained in the bill.

The Committee then rose without coming to any decision, reported progress, and obtained leave to sit again.

FRANKING PRIVILEGE.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act extending the privilege of franking letters to the Delegate from the Territory of the United States Northwest of the river Ohio, and makin

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provision for his compensation," with an amendment; to which they desire the concurrence of this House.

The House proceeded to consider the said amendment of the Senate: Whereupon,

Resolved, That this House doth agree to the same.

Resolved, That Mr. HUGER and Mr. IMLAY be appointed a committee for enrolled bills, on the part of this House, jointly, with such committee as shall be appointed for that purpose on the part of the Senate.

MONDAY, December 8.

Several other members, to wit: from Connecticut, CHAUNCEY GOODRICH, and SAMUEL W. DANA; and from Rhode Island, JOHN BROWN; appeared, and took their seats in the House.

A new member, to wit: SAMUEL TENNEY, returned to serve in this House as a member for New Hampshire, in the room of William Gordon, who has resigned his seat, appeared, produced his credentials, was qualified, and took his seat in the House.

Mr. OTIS, from the committee to whom was referred, on the fourth instant, the petition of Samuel H. Smith and Thomas Carpenter, made a report; which was read, and ordered to lie on the table.

The House proceeded to consider the report of the Committee of Claims on the petition of Oliver Pollock, made on Friday last: Whereupon,

Resolved, That the prayer of the petition of the said Oliver Pollock cannot be granted.

TUESDAY, December 9.

Another member, to wit: JOHN RUTLEDGE, Jr., from South Carolina, appeared, and took his seat in the House.

The SPEAKER laid before the House a letter from JONATHAN W. CONDY, notifying his resignation of the office of Clerk to this House; which was read, and is as follows:

"PHILADELPHIA, December 4, 1800.

"SIR: The state of my health having rendered it impossible for me further to perform the duties of Clerk of the House of Representatives of the United States, I am reduced to the necessity of resigning that appointment; you will therefore oblige me by notifying my resignation to the House, and at the same time expressing the regret with which I yield to the necessity of withdrawing myself from their service.

"With the most sincere gratitude for the frequent and continued marks of friendship and attention, which I have received personally from yourself, and the indulgence with which I have been favored by the House, in the course of my feeble endeavors to obtain their approbation in the performance of the duties of my office, I am, with sentiments of the highest respect and esteem, sir, your most obliged, most humble servant,

"JONATHAN W. CONDY.

"The Hon. THEODORE SEDGWICK,
Speaker of the House of Representatives."

The House then proceeded, by ballot, to the appointment of a Clerk, to fill the vacancy occasioned

by the said resignation; and, upon examining the ballots, a majority of the votes of the whole House was found in favor of JOHN HOLT OSWALD.

The oath to support the Constitution of the United States, together with the oath of office as prescribed by the act, entitled "An act to regulate the time and manner of administering certain oaths," were then administered by Mr. SPEAKER to the Clerk.

REPORTING THE DEBATES.

The House proceeded to consider the report of the committee to whom was referred the memorial of Samuel Harrison Smith and Thomas Carpenter, made yesterday, and which lay on the table; and, the same being again read, in the words following, to wit:

"The committee to whom was referred the memorial of Samuel Harrison Smith and Thomas Carpenter, report the following resolution, which they recommend to the House:

"*Resolved*, That it is not expedient for this House to make any order upon the subject of the memorial of Samuel Harrison Smith and Thomas Carpenter, presented on the fourth day of December instant."

Mr. CHRISTIE moved the reference of the report to a Committee of the Whole.

Mr. GRISWOLD opposed the reference.

The House divided—for the reference 43, against it 46.

Mr. JACKSON made several remarks, and concluded by calling for the yeas and nays, which were ordered.

Mr. NICHOLAS said, in a Government like ours, the theory of which is republican, and the practice of which he hoped would always continue to be republican, he considered the representatives of the people responsible to the people, by whom they were created. It was necessary, to give efficacy to this responsibility, that the people, who were to judge, should possess the purest information, as to not only the acts, but the motives of the public agents. It was of little consequence to them to know what laws are enacted, compared with a knowledge of projects that were attempted or prevented, and the grounds on which they were supported or opposed. Nor could the merits of the acts themselves be understood, unless the reasons for them were stated. It was, therefore, of the highest consequence that the reasons for our conduct should be clearly understood, that our measures may be comprehended, and our motives also known, that our constituents may judge whether we have faithfully discharged our duty.

Under this view of the subject, he thought it extremely indelicate to resist the admission within the bar of those persons who thought themselves qualified to take the debates and proceedings of the House. But what rendered the attempt still more improper, was, its being an innovation on the practice of the House. For, since he had been a member of the Legislature, individuals of this description had been placed by the House at their ease, in a situation convenient for hearing what passed. Why is this practice, hitherto unopposed, now to be broken in upon? For

such an innovation and departure from the established practice of the House, there ought to be the strongest reasons; particularly when the attempted innovation respected, and was made by, those whose conduct was to be scrutinized.

It was not without deliberation that the practice of the House had been instituted and adhered to. Some gentlemen had, some time since, contemplated the employment of a particular individual, whose services were to be paid for by the House. But the idea was abandoned, from the supposed sanction given by such an act to his statements; whereby the House might be made responsible for his accuracy and talents.

The difficulty attending the business he acknowledged to be great. But, for the reasons he had assigned, he thought the House had acted right in forbearing to interfere, further than by merely assigning a convenient place to the stenographers. It was deemed safest to confide the business to persons not known officially to the House, whose own individual interest would constitute the best pledge for their fidelity. Though no precise resolve had been passed to this effect, it was well understood that this was the course the House meant to pursue, after having given the subject a deliberate and solemn consideration.

Shall we now, said Mr. N., after this mature consideration, on the mere suggestion of personal inconvenience, on a subject of such importance as to invite a gentleman from a considerable distance, [referring to some old plan,] shall we, after the sanction of an uniform practice, fortified by the long period for which it has been observed, on the suggestion of a trifling inconvenience, which, he believed, on examination, would not be found to exist at all, adopt the innovation proposed by the report of the committee? For his part, he thought they were all deeply interested in having the debates well taken, as it was not in their power altogether to prohibit their being taken.

He had heard but two objections made to the old plan. The first was, that by passing a resolve admitting stenographers within the bar, the House gave a sanction to the reports published by them. The second was, that, as the Speaker had heretofore had the management of the business, it would be wrong to take it out of his hands.

As to the first objection, he thought it altogether incorrect. The resolution, submitted by the gentleman from North Carolina, (Mr. HILL,) which he wished the House to adopt, does not propose the selection of any particular person. It admits, generally, those individuals who wish to take the debates. Can this admission make us responsible for the conduct of men we do not know, and over whom we have no control? Have we heretofore been considered as responsible? And wherein consists the difference between our past situation and the situation we shall be in, if the motion of the gentleman from North Carolina be adopted? We shall then only have done that which before had been done by the Speaker. Governed by a sense of duty, the Speaker had refused admission within the bar. It became, therefore, necessary, in order to admit, for the House to pass a

resolution. But it did not follow that the least responsibility would arise from such an act.

Indeed, by admitting the stenographers within the bar, the responsibility of the House would be diminished; for, if the House admitted them, no one could then say that it had done anything that interfered with a faithful report of the debates; whereas, by excluding the stenographers, the unavoidable inaccuracies committed, might be charged to the House.

The second objection made to the resolution of the gentleman from North Carolina, was that, as the Speaker had heretofore had the management of the business, it would be wrong to take it out of his hands.

Mr. N. in reply to this objection, observed, that the power, heretofore exercised by the Speaker on this subject, had not been expressly delegated to him by the House. It had often been thought of, but no decision had heretofore been made. As the object asked related to the convenience of the members, he thought they were the best judges of the propriety of granting it. The inconvenience alleged to exist was entirely a matter of opinion. He thought it either had no existence or a very limited one. As he had remarked before, the subject was extremely delicate. He would not consent to furnish room for being charged with a wish to suppress the means of making an inquiry into his conduct. He believed that the innovation contended for, would be so viewed; so far, therefore, from considering it as innocent, he viewed it as wrong in itself, and likely to be mischievous in its effects.

Mr. OTIS was one of those who was not disposed to make a strong stand against the resolution offered by the gentleman from North Carolina. He did not view the point in so interesting a light as did the gentleman who had preceded him. It appeared to him in the shape of a question of convenience; and as to his own situation, it could not be affected by any permission given to stenographers to come within the bar. Many of the arguments he had heard, implied that the situation at present occupied by the stenographers was exclusive of all others; whereas if that were inconvenient they might take any other, so that they did not come within the bar.

It is true that the stenographers have hitherto been admitted within the bar. They were admitted because there was room. But, in our present chamber, the room was less; nor could they occupy a part of that little, without materially interfering with the convenience of the members.

In his opinion, the proper question for the House to consider was, whether an admission should take place independent of the Speaker, or whether he should decide its propriety. It did not follow, if the Speaker retained the management, that the exclusion would apply to all occasions. It was true, that the places desired by the stenographers were generally assigned to the high Executive officers of the Government, and the foreign Ministers. But if, in consistence with their accommodation, the indulgence could be granted, during any important debate, he had no doubt of

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the Speaker's readiness to admit them, and they might thus obtain a temporary place within the bar.

Mr. O. thought the remarks of the gentleman from Virginia covered too much ground. They ascribed to the friends of the report an attempt to preclude the people from obtaining all information of what passed in the House. No such design existed. For his part, he wished the people to know everything that occurred within these walls. There was no doubt of the debates, as heretofore given, being an inadequate organ of the ideas of the members; they had been taken for nearly twelve years, and sometimes they had been accurate, and at other times very inaccurate; and so complete had the distortion of sentiments often been, that had it not been for the name that was attached to a particular speech, the member, to whom it was ascribed, would not have known it to be his. Mr. O. would, notwithstanding, not deny the ability of a person who read the debates, to form a tolerable idea of the arguments used on a particular subject.

The charge of innovation, Mr. O. thought unjust. He proposed to leave the business as it had heretofore been left, free from any resolve of the House, to the control of the Speaker. By this conduct, no sanction would be given to the performances of any reporter; but, on the other hand, if the House passed a resolve, divesting the Speaker of his previous power, they would render themselves responsible, and would virtually give a sanction.

If it were resolved that the House should interfere, he would much rather select and pay an individual competent to the business, and appeal, for the faithful discharge of his trust, to his candor and impartiality.

If the House passed the resolution admitting the stenographers within the bar, Mr. O. asked whether they would not in fact be officers of the House. The only difference between them and the other officers would be that one would be paid and the others would not.

Mr. O. said that, in his opinion, the most inconvenient position in the House had been taken by the stenographers. It was near the Clerk's office, between which and the bar there was a perpetual passage of the members. If an experiment were made of a position on the other side, or in the upper gallery, he was persuaded it would be found very convenient. Are not, said Mr. O., the galleries constructed for the express purpose of hearing? Are they not intended for the good people of the United States? And if they can hear in them cannot the stenographers also?

Mr. O. concluded by stating the extreme inconvenience that would arise from admitting the stenographers; the interference it would produce with the assignation of seats to the Secretaries of our Government and the foreign Ministers; and with declaring his opinion that it was most expedient to adopt the report of the committee.

Mr. NICHOLSON said, that if he understood the objections made by the gentleman from Massachusetts to granting an admission of the stenog-

raphers within the bar, they might be classed under three heads: 1. It will be against precedent; 2. It would prevent the members from having elbow-room; 3. There is a possibility that the Speaker may indulge the stenographers.

As to the first objection, he would ask whether the House had not a right to exercise any power themselves that was exercised by the Speaker. Hitherto the Speaker has exercised the power, and admitted the stenographers within the bar; he now refuses to do it, and we are called upon to perform what he refuses. If we think it proper to admit them, we have a right to do it. The power heretofore exercised by the Speaker was derived from us, according to the well known maxim, *Qui facit per alium, facit per se*.

But we are told that the admission would interfere with the accommodation of the four Secretaries and the foreign Ministers. Suppose it should, said Mr. N.; I ask whether the convenience and the interest of the people of the United States are to be prostrated by our complaisance to the Secretaries and foreign agents? It is our duty to enable the people to obtain the best information of what is doing here that we can supply. Shall we abandon our duty? Shall we sacrifice the interest of our constituents to a sense of politeness to these gentlemen? It would be much better to submit to the inconvenience experienced by the Secretaries and the foreign Ministers, if there is not room for them within the bar, than to conceal from the people the knowledge they have a right to possess. Let, then, the foreign Ministers, if there be such a competition, retire into the galleries.

He considered the subject as of high importance both to the country and the members themselves. They all ought to desire their conduct to be rigidly inspected.

Gentlemen say that the debates have been heretofore imperfectly taken. Will they remedy the evil by excluding the stenographers from places within the bar? If, heretofore, notwithstanding the favorableness of their position, when stillness and silence reigned, they have been unable to take the debates with precision, can it be expected that, driven to a distance from most of the members, surrounded by a crowd in perpetual motion, they will be able more successfully to accomplish their object? Sir, said Mr. N., the expectation is absurd. It cannot be done. I have placed myself without the bar, and I declare it impossible to hear correctly. If, then, you are determined to exclude them from their usual places, you had infinitely better turn them out of the House altogether.

As to the convenience of the galleries for hearing, Mr. N. was not able, from a trial made by himself, to decide upon it. But he had heard but one uniform opinion, which was, that owing to the constant passage of persons, and the frequent crowd it would contain, it was impossible to hear there with any distinctness. With respect to the remarks made by the gentleman from Massachusetts on this point, he thought them altogether inapposite. The gallery was not constructed by

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us, and if it were a bad place for hearing it arose not from any fault to be ascribed to us. All that we did was to open our doors to all citizens who conducted themselves with decorum.

The personal inconvenience to members alleged, did not, in the opinion of Mr. N., exist. He thought there was ample room. The chamber they occupied was similar to that in Philadelphia, and the positions desired by the stenographers were relatively the same as those in Philadelphia. By advancing the Clerk's table three feet, every difficulty would be removed.

Mr. RUTLEDGE said, that the members who had preceded him had talked much about the necessity of giving the people correct information of the transactions of that House. He believed there was not a single member who did not wish to impart to the people all the knowledge they could receive, and who did not highly prize the means of information furnished by the proceedings of that House. On this point there was no division. No one was desirous of excluding the stenographers, or prohibiting the publication of debates. The only question really before the House was, whether they should persevere in the old plan; whether they should confide in the integrity and the talents of the Speaker, who had hitherto merited their confidence, or whether, divesting him of his power, they should exercise a right themselves hitherto attached to his office.

Such a mode of procedure as had been pursued on this occasion was not conformable to that heretofore practised. An application somewhat similar had been, some time since, made to the Speaker. The Speaker decided, and the House, without debate, acquiesced in his decision. A stenographer had grossly misrepresented a member, and when required to correct his false statement, had insolently refused to do it, and added to the previous injury of misstatement insult of the most contumelious kind. The Speaker dismissed him from his place for this barefaced misconduct. Some of his friends made an appeal to the House. The House acted wisely, and, with becoming dignity, refused to interpose.

Now, said Mr. R., if any other stenographer, like the one I have alluded to, shall make it his systematic practice to misrepresent, and he continue as heretofore to hold his place at the tenure of the Speaker's permission, he may be dismissed by the Speaker without troubling the House. But should the motion made by the gentleman from North Carolina prevail, we shall be perpetually appealed to, and occupied in debate. For these reasons he trusted the report would be agreed to.

Mr. HILL said he considered the subject as simply involving an address to the sentiments of the members on the ground of personal convenience, and that on that ground he was ready to sacrifice any little inconvenience to the accommodation of the stenographers; stating at the same time his entire reliance upon the integrity and talents of the Speaker.

Mr. GRISWOLD said, this is nothing less than an appeal from the Chair. To the Speaker has heretofore been committed the regulation of the ad-

mission of all persons whatever within the bar. This is the only correct mode in which such an object can be accomplished. The Speaker must exercise the discretion hitherto vested in him, otherwise the order of the House cannot be preserved. The object now is to take this power from the Speaker, and to open the area of the House to the stenographers, without the Speaker's approbation. It is said that only two persons at present apply. But if the door be once opened to admission in this way, there may be no end to intrusion. The Speaker being divested of power to act, and the necessity of acting being evident, the House will be perpetually troubled with appeals.

In his opinion, the power confided to the Speaker had been exercised in this case with great propriety. It must be apparent to everybody that the area was too small to justify the admission of the stenographers. He believed it to be an idle pretence that the stenographers could not hear. He believed it to be a mere matter of pride, which would be gratified by an appeal from the Chair, and a reversal of the decision of the Speaker by the House.

Mr. THATCHER, persuaded that all the information derived from the debates of this House was of little comparative importance when viewed in relation to the general mass of information possessed by the people, cared but little for the event of the resolution before the House. Upon this ground he felt no anxiety whatever. As a matter of order, it might perhaps be of some importance. As to the convenience of position, he doubted whether a more correct account of the debates could not be given from a situation from without the bar than within it. His reasons were these: It was well known that for four or five sessions after the organization of the Federal Government stenographers never came within the bar, and their positions during that period were as remote from the members as at present. Yet if any man would appeal to the debates then taken, he would find them as correctly taken as they have been at any time since. It is true, there were complaints of inaccuracy, but the debate takers never assigned, as a justification of their errors, the inconvenience of their situations; on the contrary, they declared that they did as well as they could, and contended that their reports were as correct as the nature of the case permitted.

When the seat of Government was transferred to Philadelphia, and the stenographers occupied places within the bar, complaints increased, the debates were taken more incorrectly, and two or three of the stenographers were actually turned out of the area within the bar; one of whom, he believed, was sent into the upper gallery.

The incorrectness of the published debates did not arise so much from an inability to hear as from an inability to take down a rapid speech.

Mr. T. said he believed the debates as taken down by Mr. Lloyd, were as accurately taken as any taken before or since. The conclusion he drew from these facts was, that if the stenographers were admitted by the House within the bar,

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the public would gain nothing by it. He had, however, no objection to their admission, if the Speaker approved it. They might, as far as he cared, take any place in the House; even seats along side of the Speaker.

Mr. DAVIS had expected to hear substantial reasons in support of the report of the committee. None such had been offered. It was said that the stenographers could hear very well from their present positions. He denied it. The reporter could not possibly hear. Though himself nearer the gentleman, he had not heard a word that fell from the gentleman from North Carolina.

He trusted the House would admit the stenographers within the bar. If not admitted, the conversation and passage of the members around them will at once prevent the debates from being well taken, and be a perpetual excuse for their errors. But if admitted, they will have no such apology, and they will be within the power of the House.

The great mass of our citizens are too remote to attend your debates. They rely on those who report them. Not more than forty or fifty persons transiently appear in the galleries, who are not equal to diffusing a knowledge of your proceedings. Exclude the stenographers, and you may as well shut your doors. It may be said that you print your Journals; but who reads them? They are scarcely read by the members themselves. On great national questions the people ought to know, not only what you do, but also the principles that guide you.

The gentleman from South Carolina was willing to place the stenographers under the coercion of the Speaker, but was unwilling to place them under the coercion of the House. For his part, he thought differently. He did not wish to see them at the mercy of the Speaker.

Several allusions had been made to the treatment of a reporter at Philadelphia, who had been driven from the House by the Speaker. He recollected the affair, and, in his opinion, the Speaker had in this case been actuated more by personal enmity than by any other motive.

Mr. H. LEE next rose. He said he put it upon the candor of his colleague from Virginia to declare whether, in his opinion, any gentleman in that House wished to suppress his sentiments, or was disposed to shrink from an avowal of them. If an individual were to judge from the debate of to-day, he would infer that it was the desire of some members on that floor to conceal their sentiments from the people. No such thing was the case. We are as anxious as those who differ with us that the people should know what we think, say, and do.

The only question was, whether the Speaker shall exercise a certain power which he can conveniently, and which he has hitherto honorably exercised, or whether we shall assume it with all its inconveniences. He hoped we should not. He feared no inaccuracy so long as the debates published received no sanction from the House.

Have you, said Mr. L., no greater objects to engage your attention than whether this man or that

man shall go out of your bar or remain within it? He thought the House might be better employed.

Mr. MACON understood the subject before the House very much as his colleague did. The question was simply whether we will take upon ourselves inconveniences alleged to exist, or keep the stenographers without the bar. He was convinced that the situations occupied by the stenographers were badly calculated for hearing, as even within the bar the members could scarcely hear each other.

One reason had great weight with him. It was, that if the House made a rule in relation to the admission of the stenographers, it would be placing law in the room of discretion. He preferred a certain rule to a vague discretion.

The danger apprehended from a crowd of stenographers was farcical. Since he had been in Congress he had never seen more than three or four. And if the number admitted should prove inconvenient, it would be time enough, when the inconvenience was experienced, to remedy it.

Mr. S. SMITH said the question was entirely one of convenience. He would not ascribe to any member a desire to suppress his sentiments. The speeches never went forth as delivered. Yet it was desirable to assign to the stenographers the most convenient places. He had heard gentlemen on both sides of the Chair declare they would experience no inconvenience from the admission of the stenographers. For himself, from his situation, he could experience none. He believed, indeed, that the members could be heard from any part of the House, and nearly as well in one place as in another. But as other gentlemen hold a different opinion, and the stenographers had hitherto been admitted within the bar, he had not the least objection, and would vote for their admission.

In this stage of the debate, the SPEAKER arose, not, he said, to inquire into the consequences of the House acting in the business, but again to repeat the line of conduct he had pursued, and the motives which had influenced his conduct; he did this for the information of members not in the House at the time he had before addressed the House. The SPEAKER then repeated what he had before stated, viz: that on being appealed to by Mr. STEWART, he had declared to him his decision before any other application had been made; that he had spoken to many members, all of whom, without a single exception, had approved his ideas, and concluded with again declaring, as he had before declared, that the stenographers could not be admitted within the bar without violating the order of the House and the convenience of the members. It was, he said, for the House to decide—to them only was he responsible.

Mr. NICHOLAS understood it to be the object of those who supported the admission of the stenographers within the bar to place them upon the same footing they had heretofore held. This was his object. All the remarks, therefore, made respecting their independence of the Chair, were inapplicable. They would still be subject to his

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control, except as to the single point of situation. In short, the business would be restored to its old form.

His colleague had made an appeal to his candor. He wished to know whether he (Mr. N.) thought that he or any other gentleman in that House wished to suppress his sentiments, or was disposed to shrink from an avowal of them? He would answer the appeal made by his colleague, and would tell him that he did not feel himself at liberty to form conjectures respecting the opinions of others, but decided from facts. If he heard gentlemen make use of arguments so weak as those he had heard that day in defence of their sentiments, he would say that their feelings differed essentially from his. He would say that, judging them by their arguments, they do not wish publicity to be given to the debates of this House.

What do the gentlemen tell us? Does it not amount to this: that their complaisance for the Speaker suffers him to judge for them in a case where they are the best judges; and would not this complaisance go to this length, that if the Speaker should judge wrong, they will not interfere to correct his error?

We are told by a gentleman just up that the application made proceeds from pride, and that it can proceed from nothing else. But the gentleman has not assigned his reasons for this extraordinary charge.

It is contended that any place without the bar will be convenient for the stenographers. Let the place be pointed out. Let the gentlemen who urge this show us a place without the bar inaccessible to the whispers of the members and the pressure of a crowd. Do they imagine that any particular place can be assigned to which they can insure a profound silence, and from which every person can be withheld? Do they not know, have they not experienced, that when business presses, when subjects of importance are discussed, a crowd is produced, noise ensues, and interposing obstacles render it impossible either to hear or see the members? In such cases, by far the most interesting that can occur, a recess within the bar can be their only protection.

The gentleman from Massachusetts had put the business upon a very extraordinary footing—a footing that he did not expect from him. He represented that it would be safe to trust the reporters to the Speaker's indulgence. For his part, he did not think it would be safe in such hands. Shall the Speaker have the discretion of saying what debates shall be taken and what shall not? Shall he, and he only, have the public ear? Could the Speaker desire this? Surely he could not. He ought rather to desire the House to decide generally than thus impose upon him such an invidious task.

Mr. N. said, he considered those who report the debates as appearing in this House on behalf of the people of the United States, to whom they communicated what passed here. The people were entitled to this information; and if, as observed by the gentleman from Massachusetts,

either foreign Ministers or Secretaries, or any other gentleman in long robes, interfered with such an object, they ought to give way. He knew not wherein consisted the propriety of assigning them particular seats. What right had they to exclusive seats? He knew no connexion that subsisted between them and this House. Be the right as it may, he was not for sacrificing a solid benefit to mere complaisance.

But a gentleman has told us that one stenographer, for his misrepresentation and insolence, had been discharged by the Speaker. In the course of debate, Mr. N. said, he had studiously avoided any allusion to this circumstance. Nor would he now say anything about it, as he thought it altogether foreign from the present question.

The respect which gentlemen expressed for the Speaker appeared to him to lead them from the object they professed to have in view. For, at present, the stenographers are not under the control of the Speaker. But admit them within the bar, and if they are guilty of misconduct, if they infringe any of the rules of the House, the Speaker has them within his power.

Some gentlemen apprehend the admission of a crowd of stenographers. The thing is morally impossible. When Congress met in a large populous city, where several daily papers were printed, we saw but two reporters. Here, removed from the busy world, where the demand for that description of labor which arose from publishing the debates was not nearly so great, and, of consequence, the profit less, it could not be expected that there could be more.

Mr. N. concluded by declaring that, in his opinion, it was the duty of the House to decide in this case. The Speaker had changed the established practice of the House. It became, therefore, the House to inquire whether he had done what he ought to have done; which, if he had omitted to do, it devolved on them to see effected.

Mr. WALN spoke in favor of the adoption of the report.

The question was then taken by yeas and nays, on agreeing to the report of the select committee, and carried by the casting vote of the Speaker. There being yeas 45, nays 45, as follows:

YEAS—Theodore Sedgwick, (Speaker), George Baer Bailey Bartlett, John Bird, John Brown, Christopher G. Champlin, William Cooper, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, William Barry Grove, Archibald Henderson, Benjamin Huger, James H. Im-lay, John Wilkes Kittera, Henry Lee, Silas Lee, James Lynn, Lewis R. Morris, Harrison G. Otis, Robert Page, Josiah Parker, Jonas Platt, Levin Powell, John Reed, Nathan Reed, John Rutledge, jr., John C. Smith, Samuel Tenney, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods

NAYS—Willis Alston, Theodorus Bailey, Phanuel Bishop, Robert Brown, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, Thomas T. Davis, John Dawson, George Dent, Joseph Dickson, Joseph Eggleston, Lucas Elnendorf, Samuel Goode,

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Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, William H. Hill. David Holmes, George Jackson, James Jones, Aaron Kitchell, Michael Leib, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, John Randolph, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Littleton W. Tazewell, Philip Van Cortlandt, and Joseph B. Varnum.

WEDNESDAY, December 10.

Another member, to wit: MATTHEW LYON, from Vermont, appeared and took his seat in the House.

MAUSOLEUM TO WASHINGTON.

The House went into a Committee of the Whole on the bill for erecting a Mausoleum to the memory of GEORGE WASHINGTON.

Mr. ALSTON was in hopes, when he first made the motion now under consideration, that a question would have been taken upon the amendment without debate; but, as his wish upon that subject had not been complied with, he held it to be his duty to give to the House the reasons which actuated him.

He said that he by no means wished to detract anything from the merit of that illustrious character whose memory we were now about to perpetuate; that it was his wish that his character might be handed to the latest posterity unimpaired, and that he really thought the amendment equally calculated to effect that desirable purpose with the bill; that the difference of expense was a matter of importance to the people of this country; that the expense of a mausoleum, from the best information he had been able to collect, would amount to at least 150 or \$200,000; that a monument, such as was contemplated by the amendment, would not cost more than one tenth as much as a mausoleum, as contemplated by the bill as it now stood. Indeed, he believed that the bare expense of interring the remains of General WASHINGTON in a mausoleum would cost as much as the proposed monument.

Mr. A. said he considered Congress pledged, as far as the resolutions of the last session went; that the gentleman from Massachusetts, (Mr. ORIS,) who was up a few days ago upon this subject, had requested information; in answer to which he had only to observe that if that gentleman would have given himself the trouble to have examined the proceedings of the last session of Congress he would have been better informed than he appeared to be; that a committee equally respectable with that which had reported the bill at the present time, had then fully investigated the subject, and had made a report, which was to be found upon the journals of the last session of Congress, recommending a monument such as was contemplated by the proposed amendment, and that the request made by the President of the United States to Mrs Washington, in conformity to the report of that committee, was for a monu-

ment; to which request she had consented; he, therefore, considered Congress as pledged thus far and no farther; that a motion was made in this House to change the monument to a mausoleum; that the recent death of General WASHINGTON at that time, prevented any person from opposing any measure which was offered, let the expense be what it would; but that the time which had elapsed since, had enabled the public mind the better to judge.

The gentleman from Virginia (Mr. LEE) and the gentleman from Connecticut (Mr. GRISWOLD) had dwelt a great deal upon the subject of public gratitude. It was by no means his wish or intention to lessen that sentiment, but he said that he could not give his consent to an expensive measure like that contemplated in the bill, when a measure far less expensive, in his opinion, would answer every purpose as well.

Mr. ALSTON was followed by Mr. HUGER, who advocated the erection of a mausoleum.

Mr. SMILIE replied. He considered the erection of a mausoleum as productive of unnecessary expense, as a monument would answer every rational purpose contemplated in the bill.

Mr. H. LEE next spoke at some length in favor of a mausoleum, and read a letter received from Mr. King, our Ambassador at London, enclosing a plan, presented to him by an eminent foreign artist, for a mausoleum of one hundred and fifty feet base, and the same height, the expense of which was estimated at \$170,000.

Mr. CHAMPLIN, after some remarks, moved that the Committee rise, report progress, and ask leave to sit again.

Which motion being carried without a division, the Committee rose; and on the question to grant them leave to sit again, only three members rose in the affirmative.

Mr. CHAMPLIN then moved the recommitment of the bill to the same committee that reported it, with the addition of two members, which was carried, and Messrs. CLAIBORNE and CHAMPLIN appointed.

After Mr. CHAMPLIN's motion for a recommitment of the bill to a select committee was carried,

Mr. CLAIBORNE said he had risen to move that the committee just appointed be instructed to inquire into the expediency of carrying into effect a resolution passed by the old Congress, on the 7th of August, 1783, directing an equestrian statue of General WASHINGTON to be erected at the place where the residence of Congress shall be established.

Mr. C. said, that on a question which could not fail to excite the sensibility of every American heart, it was a subject of great regret that a division of sentiment should arise. The memory of our departed patriot lives in the affections of a grateful country, and will triumph over time. During a long life, so usefully and honorably employed, WASHINGTON had reared to himself a fabric of fame, the lustre of which can neither be diminished nor heightened by any measure that we can take. But, sir, from a respect for our own, as well as for the feelings of the nation, we should

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endeavor to unite in the last act of attention which we propose to show this venerable character.

Mr. C. said that the proposition for a mausoleum was calculated to create division. The expense of such a monument would be immense, and would be viewed by many as a profuse and useless expenditure of the public money. He believed that the statue recommended by the old Congress could be better justified upon principles of economy, and would meet with more general support. Here Mr. C. read from the Journals of the old Congress the following resolutions:

"Resolved, (unanimously, ten States being present) That an equestrian statue of General WASHINGTON be erected at the place where the residence of Congress shall be established.

"Resolved, That the statue be of bronze—the General to be represented in a Roman dress, holding a truncheon in his right hand, and his head encircled with a laurel wreath. The statue to be supported by a marble pedestal, on which are to be represented, in basso relievo, the following principal events of the war, in which General WASHINGTON commanded in person, viz: The evacuation of Boston—the capture of the Hessians at Trenton—the battle of Princeton—the action of Monmouth—and the surrender of York. On the upper part of the front of the pedestal, to be engraved as follows: 'The United States in Congress assembled ordered this statue to be erected, in the year of our Lord, 1783, in honor of GEORGE WASHINGTON, the illustrious Commander-in-Chief of the Armies of the United States of America, during the war which vindicated and secured their liberty, sovereignty, and independence.'

A monument thus designed, (continued Mr. C.) would portray in lively colors the military achievements of our late illustrious Chief, and is calculated to impress upon our posterity a grateful recollection of his eminent services. Mr. C. was the more interested in support of a monument of this kind, because it had been sanctioned by an unanimous vote of those venerable philosophers and statesmen who presided in our councils, at a time of the greatest danger, directed the storm of war, and tamed the rage of tyranny.

It was true, that this equestrian statue would not express any of the great events of WASHINGTON's civil life, but, of these, we have already many honorable testimonials; the first in order, and which he hoped would be the last in durability, was the Constitution of the United States; to this instrument his name was annexed, and would be noticed with gratitude by the lovers of freedom in every age and every clime; this city is another memento of his civil life, and, if it should be the residence of all that piety, wisdom, and magnanimity, which was so devoutly prayed for by each branch of the Legislature, at the commencement of the present session, this city would remain an honorable testimonial of the civil virtues of its great founder.

There was no doubt, said Mr. C., but that many gentlemen were also solicitous that the body of General WASHINGTON should be deposited within the walls of the Capitol; of this number Mr. C. was one, and was desirous that a plain but neat apartment should be speedily prepared for its re-

ception. But over his remains, instead of an expensive monument, Mr. C. thought it most advisable to place a plain but neat tomb-stone, of American marble, and prepared by an American artist. And in order to convey to posterity, in impressive language, the feelings of the American nation, when the loss of our patriot, sage, and hero, was first announced, Mr. C. wished to see engraved upon this tomb the addresses of each House of Congress upon this occasion to the President of the United States, together with the President's replies thereto.

Mr. C. concluded by moving the instructions stated in the commencement of his speech.

Mr. CLAIBORNE was followed by Messrs. CRAIK and NOTT.

The instruction to the committee, moved by Mr. CLAIBORNE, with a slight modification, was agreed to.

THURSDAY, December 11.

A letter was presented from Mr. L'Enfant, stating the services he had rendered in the formation and execution of the plan of the City of Washington, complaining of the ill treatment he had experienced, and requesting the attention of Congress to the propriety of rendering him compensation for his services.

A letter was received from the Secretary of the Treasury, accompanied by a statement of appropriations necessary for the year 1801, and a statement of the receipts and expenditures preceding the 1st day of October, 1800. Referred to the Committee of Ways and Means, and ordered to be printed.

The committee to whom was referred the congratulatory address of sundry citizens of the Territory of Columbia to Congress, reported that the address contained sentiments expressive of a laudable attachment to the Government of this country, and of a sincere solicitude to accommodate the members of the Government, and concluded with a resolution that the SPEAKER be requested to enclose to the committee appointed on behalf of the citizens a copy of the report. Report agreed to.

CLAIM OF MAJOR JACKSON.

Mr. RUTLEDGE presented a petition from Major Jackson, an officer in the Army of the United States, stating that the Secretary of War had refused to allow him double rations, to which he considered himself entitled as the commandant of a post, and desiring Congress to take his claim into consideration.

Mr. R. moved to refer the petition to a select committee.

Mr. GRISWOLD hoped it would go to the Committee of Claims. They were more competent, from their acquaintance with the nature and extent of the various claims made, to investigate the present claim. It is further desirable that a general system should be adopted and applied uniformly to all cases. This could only be accomplished by all the objects of this kind being laid

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before one committee. In this way only could an uniformity of decision be attained.

Mr. CLAIBORNE was in favor of a reference to the Committee of Claims. He had himself, during the last session, presented a petition of a similar kind, which he wished to go to a select committee; but he had been opposed by the gentleman from South Carolina, at whose instance it was referred to the Committee of Claims.

Mr. OTIS thought the claim made by the petitioner much better for the consideration of a special committee than for that of the Committee of Claims. The claim, he understood, was founded by the petitioner on the spirit of a law that allowed double rations to every officer who was a commandant of a particular post. He was informed that the petitioner had had the command of several posts in succession; and that, not exclusively confined to one, he had had the direction of several. The construction put on the law by the Secretary of War might be legal, but not equitable. If so, it became the House to change the provisions of the law, and to render them conformable to cases which had not been contemplated at its passage. If this were the case, it presented objects distinct from those usually submitted to the Committee of Claims.

The question was then taken on a reference to the Committee of Claims, and carried—48 members rising in favor of it.

MILITARY ESTABLISHMENT.

Mr. VARNUM laid a resolution on the table to this effect: "That it is expedient so to alter the 'Military Establishment of the United States' that the second regiment of artillery and engineers shall consist but of three battalions."

Previous to offering this resolution, Mr. VARNUM took a concise view of the progress made since the year 1796 in the Military Establishment, and stated that in 1799 a new organization was made, whereby each regiment ordered to be raised was made to consist of four battalions. One battalion was not yet raised, but according to that system it would soon be raised unless countermanded. He was of opinion that in the present state of the country it was quite unnecessary, and therefore hoped that the House would concur with him in altering the present law in such a way as to prevent the raising another battalion.

DISTILLED SPIRITS.

Mr. NEW called up the resolution laid by him yesterday on the table, which was read, as follows:

Resolved, That a committee be appointed to inquire whether any, and, if any, what, alterations are necessary to be made to the several acts "laying duties on spirits distilled within the United States, and on stills," and that they be authorized to report by bill or otherwise.

Mr. NEW observed that his object in making the motion was to have the law so amended as to allow the proprietors of stills to use them when they pleased, and have the option of paying by the gallon, or on the capacity of the still. Agreed

to, and referred to the Committee of Ways and Means.

FRIDAY, December 12.

A letter was received from the Secretary of the Treasury, enclosing a statement of the loans made in relation to the city of Washington, and a report from the Commissioners, containing an account of the expenditures from November 18, 1799, to November 18, 1800—referred to the committee of Ways and Means.

A letter was received from the Secretary of State, enclosing a list of impressed American seamen, with an account of the measures pursued for their release. Ordered to be printed.

The report of the Committee of Commerce and Manufactures, allowing Robert Hooper a drawback on fourteen pipes and three quarter casks of Madeira wine, was agreed to, and the same committee instructed to report a bill for that purpose.

JENKINS AND SONS.

The House went into a Committee of the Whole on the report of the Committee of Commerce and Manufactures on the petition of Thomas Jenkins and Sons. The report is as follows:

"That the object of the petitioners is to obtain a register for a ship built on the remains, or hulk, of a British ship, burnt at the port of New York; three-fourths of which ship, they set forth to be built with timber, plank, and other materials of the United States.

"The committee are of opinion, that the prayer of the petition ought not to be granted, and that the petitioners have leave to withdraw their petition."

A debate of some length, in which Messrs. S. SMITH and OTIS supported the report, and Messrs. BIRD, HUGER, and ELMENDORF, opposed it, ensued. On the question to agree to the report, it was carried.

NORTHWEST TERRITORY.

Mr. McMILLAN observed that appropriations of particular tracts of land in the Northwest Territory had been made for the establishment of schools and the support of religion, and that in particular a tract of land six miles square had been set apart for these purposes out of a tract granted to John C. Symmes & Co. One of the terms of the appropriation had been the location thereof, with the consent of the Government of the Northwest Territory, within a certain time, which had not been done. He also stated, that in each township, one lot had been appropriated for the support of schools, and one for the support of religion; but that Congress had not vested them in any particular persons. It followed that the property not only remained unimproved, but was much injured by the encroachment of individuals. He had been directed to apply to Congress to take the subject into consideration, that such provisions might be made as would redress the existing evils. For which purpose he moved the appointment of a committee to inquire into the situation of certain tracts of land, appropriated to the support of schools and religion, out of a tract of land granted

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to John C. Symmes, to report by bill or otherwise what measures are necessary to be adopted to render the said tracts productive.

The report was ordered to lie on the table.

Mr. S. SMITH, from the Committee of Commerce and Manufactures, presented, a bill for the relief of Robert Hooper; which was read and committed.

MONDAY, December 15.

Another member, to wit: THOMAS PINCKNEY, from South Carolina, appeared, and took his seat in the House.

Mr. COOPER, after some prefatory remarks, moved the appointment of a committee to inquire into the expediency of repealing an act for the valuation of lands and dwelling-houses, and for the enumeration of slaves, within the United States.

Ordered to lie on the table.

ROBERT HOOPER.

The House went into a Committee of the Whole on the bill for the relief of Robert Hooper. After being read by the Chairman, the bill was reported to the House without amendment; and on the question of engrossing it for a third reading,

Mr. GRISWOLD said he wished to be informed wherein the facts, on which the committee at the present session had founded a favorable report, differed from those on which the committee in 1797 founded a different report, which then stated that the loss of the petitioner had arisen from a want of care on his part.

Mr. S. SMITH said he had been a member of both committees. In 1797 the petitioner supported his claim only by his own assertions; he was therefore against allowing it; the report was unfavorable, though he believed it had never been acted upon by the House. During the present session full proof had been exhibited that the loss of the petitioner did not arise from any misconduct of his, but from the inattention of the custom-house officer.

Mr. OTIS thought the case one of the plainest that could occur. The petitioner had imported certain specified goods; had declared his intention to export them; and had applied to the proper officer for coastwise certificates and clearances, and all other papers necessary for effecting his purpose. It was well known that the deputy collector was generally supplied with blanks, which he filled up as the case required. The petitioner, after expressing his wishes, and receiving from the deputy collector certain papers, asked "Have I got all my papers?" the answer was "yes." Afterwards, when too late to retrieve the error, he found that he had not one.

Mr. WALN, on a former occasion, had been opposed to the claim, because proof had not been produced of landing the goods in a foreign country. Proof of this fact was now furnished. As he had no doubt of the exportation of the articles, and of their having been landed in a foreign country, which is all the law requires to entitle the exporter to drawback, he thought that the claim ought to be allowed.

On the question for engrossing the bill for a third reading to-morrow, it was agreed to without a division.

WILLIAM NICHOLS.

On motion of Mr. LEIB, the House went into a Committee of the Whole on the report of the Committee of Claims on the petition of William Nichols, late Marshal of Pennsylvania.

The report was read, which allows the claim made by William Nichols for the expenses of the attendance of jurors and witnesses on the trial of insurgents in '95, before the Circuit Court of Pennsylvania.

Mr. MACON observed that the money stated by the petitioner to have been paid by him, was not warranted by any law existing at the time. The reason assigned by the petitioner for paying the sums he wished to be reimbursed was that at the time he was young in office. The sum allowed by the report, was the highest allowed in any State to jurors and witnesses, and was even higher than that paid in Pennsylvania. Under these circumstances he moved that the Committee should rise, and report progress.

Mr. WALN said that the judges had sanctioned the sums allowed in the report; and, though there was no law that authorized it, the measure was justified by the necessity of the case. The allowance made was to individuals in the double capacity of jurors and witnesses. It was thought equitable that they should be compensated in both characters. The sums allowed were the same as those that were allowed in the Supreme Court of Pennsylvania. These considerations made him friendly to the report.

The question for the Committee's rising was lost.

The Committee then concurred in the report of the Committee of Claims, which concurrence being reported to the House, was confirmed by them, and the Committee of Claims instructed to report a bill.

TUESDAY, December 16.

An engrossed bill for the relief of Robert Hooper was read the third time, and passed.

WEDNESDAY, December 17.

Mr. MACON, from the Committee of Claims, to whom was referred, on the eleventh instant, the memorial of Peter Charles L'Enfant made a report; which was read and considered: Whereupon,

Resolved, That the prayer of the memorial of the said Peter Charles L'Enfant cannot be granted.

Mr. H. LEE, from the committee to whom was referred, on the twenty-eighth ultimo, so much of the President's Speech as respects the District of Columbia, made a report, in part; which was read and ordered to lie on the table.

DISTRICT OF COLUMBIA.

Mr. H. LEE, from the same committee, presented

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the following bill concerning the District of Columbia; which was twice read and committed:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the laws of the State of Virginia, as they existed on the first Monday of December in the year 1800, shall be and continue in force in that part of the District of Columbia which was ceded by the said State to the United States, and by them accepted for the permanent Seat of Government: and that the laws of the State of Maryland, as they existed on the said first Monday in December, shall be and continue in force in that part of the said district which was ceded by that State to the United States, and by them accepted as aforesaid.

SEC. 2. *And be it further enacted,* That all executive and judicial officers, appointed by the respective States of Virginia and Maryland, and who had jurisdiction in or over the said district, or any part thereof, on the said first Monday of December, according to the tenor of the Constitution and laws of the said States, shall continue to hold and exercise such jurisdiction until removed by the President of the United States; and that the appointment of all such officers hereafter, shall be made in the manner designated by the second section of the second article of the Constitution of the United States.

SEC. 3. *And be it further enacted,* That nothing in this act contained shall in any wise alter, impeach or impair the rights granted by or derived from the acts of incorporation of Alexandria and Georgetown, or any other body corporate or politic within the said District.

REDUCTION OF ARTILLERY.

MR. VARNUM, called up his resolution, laid on the table on the 11th instant, for reducing the second regiment of artillery to three battalions: it at present consists of four battalions.

MR. OTIS declared himself surprised at the resolution offered by his colleague, as he had not known any act passed in that House with more unanimity, or which appeared at the time or since to be attended with more general satisfaction, than the act on which the present establishment of artillery and engineers was founded. At the time the act was passed, the body of artillery and engineers thereby raised was considered and declared to be part of the permanent army; and in this view it had since received the sanction of the House in every form in which it had been presented.

To show that this was the case, it would be only necessary to exhibit a history of the establishment of this body of our military force.

Prior to the year 1794, the corps of artillerists and engineers consisted of one battalion.

In May 1794, in a time of profound peace, an act passed increasing the establishment to a regiment, consisting of four battalions.

In May 1796, an act was passed recognising and confirming the existence of the regiment, previously directed to be raised.

In April 1798, before Congress contemplated the existence of that emergency which afterwards occurred, before the Provisional Army was authorized, or a naval equipment with a view to actual hostility with a foreign Power was begun, an act passed directing the raising an additional regi-

ment, to consist of three battalions, and this not merely for three years, as had been hitherto usual, but for five years.

On the 3d of March 1799, an act passed for the better organization of the troops of the United States, augmenting the numbers of the companies and regiments of infantry and cavalry, and directing that the second regiment of artillery should consist of four battalions instead of three. The provisions of this act were such as manifested the determination of Congress that the artillery thus directed, and that only, should be raised in any event. Thus the augmentation was not authorized for the purpose of meeting the crisis or of constituting a part of the temporary arrangements for defence, but as a resource for instruction and defence at all times and upon all occasions.

In the last session of Congress two acts were passed which materially affected the Military Establishment. One of which suspended all further recruiting in reference to the twelve regiments, but was silent in respect to the artillery; the other for authorizing the President to disband the infantry and cavalry, but expressly restraining him from diminishing the numbers of the artillery. Was he not therefore warranted in the assertion that the present establishment of the two regiments of artillery and engineers had been authorized with the greatest deliberation, and sanctioned as a favorite measure? That it was intended to be cherished as a nursery for those branches of military science which are most difficult of acquisition, which cannot be learnt or practised upon a sudden emergency? While every other part of the Military Establishment had experienced a radical reform, the organization of the artillery had hitherto remained exempt from objection and dispute.

This being the case, was it not incumbent on the gentleman, who had submitted the resolution before the House, to point out some of those discriminating circumstances, for the adoption of a measure at this time which has been hitherto inexpedient? Was it not incumbent on him to show that he did not intend the accomplishment of this measure as a prelude to the entire annihilation of the little germ of an army that now remains to this country?

For his part, MR. OTIS declared he was not ambitious of assuming either credit or responsibility that would arise from a reformation that would leave the country destitute of defence. He was willing that those who succeeded in the administration of the Government should reap the honor and advantage of this reform.

Whether the force at present authorized by law was more than adequate to the protection of our extended sea-board, and our no less extensive frontier, would clearly appear by a statement of the distribution of it that is intended when the regiments are complete.

He had taken some pains to inform himself of this fact, and had prepared a document to show, exclusive of officers commissioned and non-commissioned, the numbers that would be stationed at the respective posts. MR. OTIS then went minutely into a statement of the numbers allowed

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to every post and garrison where the artillery are to be employed; the results of which were as follows:

In Georgia and South Carolina - - -	192
Virginia and Maryland - - -	192
Pennsylvania - - -	144
New York - - -	288
Connecticut - - -	48
Rhode Island - - -	144
Massachusetts - - -	192
On Northwestern frontier, from Niagara to Mobile Bay. - - -	336

Total - - - - - 1536

And this number was to be divided among nearly thirty different garrisons.

Now let any man, acquainted with the extent of our country, and who knew how vulnerable it was in many points, forming a line in one direction of fifteen hundred miles, and in the other direction of more than two thousand: let any man decide whether such an extended country could be adequately defended by a force less than two thousand in number? When the numerous harbors to be defended, on the seaboard, and the number of forts on the western frontier, requiring garrisons to protect them from the attacks of the Indians, were considered, could any reasonable man affirm that two thousand artillerists and engineers were too many?

Cannot we support this establishment? Are we too poor? True economy itself would dictate a continuance of the force. For the militia, however useful in other circumstances, could afford but little defence to our forts and harbors without a corps of regular artillery to support and encourage their efforts. He put entirely out of view all considerations derived from the four existing regiments of infantry. They were entirely occupied in defending our western frontiers from Indian invasion. Their services were there required, as the militia could not be kept in readiness to repel sudden aggressions, but at an enormous expense.

We are extremely young in the science of engineering. However competent the militia may be to the great purpose of ultimately defending the country, they are not in such a situation as to be enabled to protect our forts and harbors on a sudden invasion. If the militia are incompetent to this end, we must rely upon a standing force. Infantry and cavalry might soon be created, but artillery and engineers were not the growth of a day. By diminishing these, you deprive yourselves of all the solid advantages to be derived from the militia, who in co-operation with a small regular force of this description would be formidable, but who, unaided by them, would be inefficient.

The resolution in question he also considered as quite premature. What change, he inquired, since the last session, when the maintenance of this battalion was recognised as expedient, had occurred in our foreign or domestic relations? A convention, it is said, is made with France. But we are ignorant of its terms, its nature, or extent. It has not yet been ratified, and when ratified, who

will answer for its due execution, or the consequences which may ensue? If it restores our friendly relations with France, may it not produce a misunderstanding with other Powers? Do not circumstances exist that render it highly prudent to secure and strengthen our western posts? He was persuaded that if a powerful nation like the United States, should declare its inability or reluctance to support this moderate military force, it would incur the contempt of other nations. They would hardly condescend to treat with us for a compensation of injuries, or if they made treaties, they would violate them in the full confidence of impunity.

But it was said by the gentleman, that as this battalion had not yet been raised, the inference was obvious that it was not necessary.

But for what reason had the raising of it been delayed? It would be recollected that during the last session of Congress, the late Secretary of War presented to this House a project for reducing the two regiments of artillery to three battalions each, and in lieu of the fourth battalion to substitute a corps of artillerists and engineers, and a military academy, in which they might be initiated into the principles of these useful and necessary sciences. While that report was pending before the Legislature, it would have been improper and inexpedient to recruit for this fourth battalion. Had the substitute been adopted, the measure would have been superseded. But the report of the Secretary, though many parts of it were, in his opinion, highly deserving of attention, was not accepted by Congress. Since that period, the seat of Government had been removed. The former Secretary of the War Department had resigned, and some time of course had been lost; he knew, however, that some of the officers had been appointed, and had reason to believe that the corps would soon be perfectly organized. Another reason, Mr. OTIS alleged, was, that the intention of Government had been principally directed to organize the temporary army; it being conceived that the permanent establishment might proceed more leisurely. On the whole, Mr. O. said, that he was not one of those who were dismayed at the crisis in the political affairs of the country, and he trusted there was still a majority in the House, who, unawed by a change of times, and unshaken by the prospect of seeing their measures hereafter reversed, would persevere while they had the power in maintaining the principles and measures to which the nation was indebted for its dignity and prosperity. If the administration of the Government is destined to change, let those who succeed take upon themselves the burden of reform; and if it was intended by this resolution, that he should have an opportunity to partake in the glory and advantages of it, with all due acknowledgment, he begged to decline the offer.

Let those into whose hands the future Government might fall, realize the expectations that have been raised, let them perform all the engagements they have made, let them preserve and augment the public prosperity, and while they enjoyed the exclusive credit of their measures, they should on

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those conditions receive all the support and approbation which in his humble sphere he could afford. But he had no idea of adopting measures that would betray symptoms of regret and contrition for the past, and he hoped his friends would do nothing that should be construed into a death-bed repentance of a conduct which constituted their glory and their pride. Retiring himself from a short political career, he had the consolation to reflect that his efforts had been directed to the support of no measure, which would not be a source of satisfaction, if he were retiring from the sphere of existence. And he doubted not that the other gentlemen had been actuated by the same motives, and would unite in the evidence of their sober conviction, by voting against the resolution.

Mr. VARNUM observed that his colleague had not confined himself to a true statement of facts. It was well known that the military force raised in 1794 was for a standing army, of which character was the first regiment of artillery. But when the second regiment was raised, the country was in a state of alarm. We were told that war menaced us, and were terrified with the idea of invasion. Still, it was determined by Congress that the regiment should consist of no more than three battalions. If, then, at that period, when the danger was exaggerated by our fears, three battalions were thought sufficient, can more be thought necessary now, when there is no alarm, no danger of war or invasion?

Mr. V. was of opinion that the three battalions were sufficient for every rational purpose to be accomplished by artillery. He did not mean to say that they were equal to the defence of the country in case of invasion. The idea would be childish. In such a case our reliance must be upon the militia, upon the great body of the people themselves.

The gentleman who had preceded him had dwelt on the unfavorable condition of the militia, and the little knowledge we had yet acquired in relation to artillerists and engineers. Yet that gentleman must know, that in Massachusetts alone, there were forty companies of artillerists and engineers, well equipped and well disciplined, ready, at a moment's notice, to turn out in defence of the laws of the United States, or of that State. Other States were probably as well provided.

The only occasion, said Mr. V., we had for this description of troops, was to defend our harbors and posts from any sudden attack. For this purpose twenty-eight companies were fully adequate. On the occurrence of a great danger, we must not look up to these men, but to the people. Our true defence, our great and only defence, consisted in the militia. He believed them to be in such a state as to protect us from any danger.

Mr. RUTLEDGE was surprised at the remarks of the gentleman from Massachusetts. He had stated no facts, he had referred to no documents, but had confined himself to a declaration of his belief that the four battalions of artillery are unnecessary, and had concluded by pronouncing, as he had frequently before done, a panegyric upon the militia. He thought as highly of the militia as the gentle-

man did, and he felt more for them. He did not desire to drag them from the plough, and the enjoyments of domestic felicity, to carry them to the seacoast, there to confine them for long periods in forts, under the pretence of a miserable economy. A comparative view of the relative expenses of a standing force and the militia, would convince the gentleman that the latter was by far the more expensive. Let him call to recollection the state of our fortifications at the close of the Revolutionary war. Fortifications then covered the face of the country. But no sooner was peace restored to us than the people believed it would last forever. Government received the same impulse, and suffered the defence of the country to fall into decay. And what were the consequences? We were now called upon to repair them. This very result would be produced by that pitiful spirit of economy that the gentleman wishes to revive.

Mr. R. spoke not from documents, but what he said was derived from actual observation. In travelling from the southward he had seen on the seacoast harbors and forts miserably garrisoned. His friend from Massachusetts (Mr. V.) had not been correct in his statement. The numbers he had assigned to different places were not those actually there, but those contemplated to be stationed when the establishment was complete. In the whole extent of South Carolina and Georgia, there were stationed only one hundred and ninety-two men, and in North Carolina, only one hundred and forty-two.

Discarding, as Mr. R. was compelled to do, all view to false economy, there was another view that naturally presented itself. Was the state of the nation materially changed; and, if it were, should that change have any influence on the measure under discussion? If the establishment of the two regiments of artillery was part of a permanent system, and not derived from any existing or apprehended state of things, and this had been his opinion, and was, he believed, the opinion of Congress, any change whatever in the state of the country would not affect the question before the House.

Artillery, said Mr. R., from their very nature, ought to be permanent. Infantry and cavalry can be soon raised and made effective; but not so with artillery. They require time to render them serviceable. We all know the force of artillery in war. The brilliant successes of the French were owing to the superiority of their artillery to that of their enemies. The First Consul had himself been an artillerist; he had been bred in the school of Paris. In the great war waged against Prussia, Frederick had converted almost the whole of his force into artillery; he had himself invented the horse artillery. By these means he had triumphed.

The Secretary of War had last session made a report recommending the formation of a military school. But his plan had not been embraced. This having failed, he hoped a strong Military Establishment would be substituted in its room.

Mr. R. was indisposed to diminish the corps of

artillerists and engineers; not that he wished to keep up an army for purposes of parade; the present establishment was not more than competent to our defence. If a reduction were to be made, he would much rather diminish the infantry or cavalry than the artillery, for the reasons he had already assigned.

Whether the state of the country was changed, or was not, it was not for him to say. If called upon to give his opinion, he would say that he thought the state of the country was changed. Two years ago the prospect of war was threatening. He now believed we should have peace; and if we did obtain it, it would be owing to the exertions of his honorable friend and of those who acted with him. To the energetic measures pursued by them, by which the people had been roused from apathy to a lively exertion of their powers and an exhibition of their spirit, we should owe its blessings. Their patriotic labors had warded off the dangers that threatened us, and prevented the adoption of measures in which we might have found our ruin. Mr. R. concluded with declaring that it was not for him to say what changes had taken place in the internal situation of the country.

Mr. SHEPARD said that a great expense had already been incurred in raising the artillery, which would be useless if they were now dismissed. He believed, too, the artillery to be the most important part of our Military Establishment. For this and other reasons, in the expression of which other members had anticipated him, he was against the motion for the reduction.

Mr. S. SMITH was perfectly agreed, on general principles, with the gentleman who had just sat down. A preference ought certainly to be given to that description of troops which required much previous instruction before they could be useful. In 1794 he had heartily concurred in adopting measures calculated to call into existence gentlemen of capacity to be instructed in enginery. An additional regiment had been urged at that time. It had been urged in 1796. A report was afterwards made of the number of men required. Upon that report the new regiment had been bottomed. It was then declared it would be no defence against an invading enemy; and it was replied that it was proposed to organize it for the particular purpose of defending our ports and harbors, and as a school of information. At that time we had the prospect of a war before us. Still, it was understood as a part of our permanent arrangement. If the establishment then formed was sufficient, why was it not now sufficient, when we have no new forts except those in the South-western Territory?

A proof of the uselessness of the additional battalion, said Mr. S., was derived from the conduct of the Executive. Neither the Secretary of War nor the President had called it into service.

The great object of the regular troops was to take care of the arms, forts, &c., and not ultimately to defend them. That object could only be accomplished by the militia, on whom, in periods of danger, we must rely for our substantial

defence; for no man can suppose ninety-six men equal to the defence of Fort Mifflin, if attacked by an invading enemy.

Mr. S. said he thought the present number of artillerists sufficient. Indeed, one company might be spared from Fort Jay, and one from Newport. Fort Jay was in the vicinity of a populous city, from which any aid could be obtained. The harbor at Newport he considered of the utmost importance, as he thought in a time of war we must look to that port for the protection of our Navy.

Mr. S. was not an enemy to measures of defence. He had been among the foremost in proposing and supporting them. But he thought the grand defence of this country rested in the Navy and Militia. Let us then encourage and advance these. They will be our true friends in times of danger. Congress had applied a sum of money to be laid out in arms to be put into the hands of the militia; and yet not one stand of arms had been given to that useful body. Why had this not been done? The want of money he presumed was the cause. He was not among those who wished to complete the destruction of defensive measures. Nor was he for rushing into childish expense, barely to make a boast of our strength.

Mr. S. affirmed that the fourth battalion had been raised in a back-handed way, and not in the fair, regular manner, that had been pretended. Without taking up the subject by itself, a bill had been passed in 1799 barely directing that a regiment should consist of four battalions; and so back-handed did the President deem it, that he had never raised the additional battalion, not considering it the wish of the House that it should be raised; and, as to the Secretary of War, he had given it up last session for a military school.

One gentleman was greatly alarmed about nations not treating with us, as if our having one or two battalions of artillery would have any influence upon foreign nations. No injury could be done to the country by the proposed reduction. It only affected the future establishment. It did not diminish in the least the existing force. As to the measures of the new Administration, no one can tell what they will be. He trusted that they would be what they ought to be.

It appeared to Mr. S. strange to urge the raising of a new body of the military while the old body remained so incomplete. There were nominal corps in existence without a man. Why appoint officers for such corps? But if officers are wanted, there were one hundred and fifty vacancies in the old corps; fill them. The gentleman from Massachusetts had shown that this corps was useless. Mr. S. had shown that it had been authorized by the Legislature without having been called into existence by the President when war threatened us, and now when gentlemen tell us they expect (and he believed they expected truly) peace with all the world, we are called upon—strange inconsistency!—to organize this force.

The sum of forty-five thousand dollars, to be saved by the proposed retrenchment, had been called pitiful. He was far from thinking forty-five thousand dollars a pitiful sum.

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Mr. S. disclaimed harboring the most distant idea of diminishing the present effective force of the United States, and more particularly that of the artillery. That at present in existence he thought useful and sufficient.

Mr. H. LEE thought a view could be taken of the subject before the House that would demonstrate the inexpediency of adopting the resolution proposed by the gentleman from Massachusetts. Let a view be taken of our forts, their distance from each other, the amount of our ordnance, and our infant Navy, and the number of men required for all these objects; and he would ask the mover of the resolution whether he could persist in his purpose? A statement had been made of the number of our forts, and of the men that garrisoned them. He would call upon gentlemen to say, whether the number of men was more than adequate to meet ordinary objects that arose during a state of peace. This was not sufficient. We must contemplate our predicament in a state of war. The militia had been represented, in such a state of things, as our great defence. But it was a fact, that before they could be operative a very inferior force might sweep out of our hands many of our most valuable forts.

The gentleman from Maryland had given it as his opinion, that the force stationed at Norfolk might be reduced. Mr. L. held an opposite opinion. He knew Elizabeth river to be very important, and he also knew that it was badly protected. If you do not defend your forts well, you had much better not do it at all. Newport and New York were also very important stations. Hampton road commands your attention. How, under your present establishment, would you defend your Navy riding in that road? In case of a war with England, your little Navy must fly to your shores for safety; and, when there, how are they to be protected?

This battalion not having been raised by the President has been tortured into an argument against the measure, under the belief that the President thought it useless. Mr. L. said he was disposed to pay the highest respect to the President of the United States, and he was happy to hear other gentlemen unaccustomed to express such respect, unite with him on this occasion. But he was, notwithstanding, not disposed to sacrifice his own opinion, though he thought the conduct of the President had been otherwise satisfactorily explained by a gentleman who had gone before him in the debate.

Mr. L. wished gentlemen to feel the full force of those remarks which had enforced the great weight of artillery in military operations. In the various campaigns conducted by the Chief that was now no more, we were without artillery, in consequence of which much American blood had been spilled. From the want of artillery we had lost Ninety-Six. In the loss of that place a fatal blow had been inflicted upon our arms. One engineer of talents would have saved it.

Mr. L. was not disposed, by adopting the motion, to cut up by the roots the only military school we have left. It was within our power,

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and it was undoubtedly our duty, to retrench all useless expenditure of public moneys. But he held it to be a still higher duty not to hazard the welfare of the country. If you are determined to reduce the Army, strike at the infantry and cavalry. The evil which you will then do may soon be repaired. A few weeks will make soldiers of this description. But, if by a wanton blow, you destroy science, study, and experience, you cannot soon repair the loss.

The SPEAKER said he rose to observe that it was not in order to make use of arguments derived from the execution of a law by the President, as no Constitutional control could be exercised by this House.

Mr. MACON said that the true question was whether the House thought it necessary at this time to raise the additional battalion. Does such a state of things exist as requires its being raised? If it does not, it ought not to be raised, the nominal existence of the battalion on paper to the contrary notwithstanding. As it never yet in reality existed, and we had done very well without it, he saw no occasion why we should call it into being now. As to the alleged use of it at a future period, he thought the idea futile. For then twenty battalions, for aught we can say, may be thought necessary.

Gentlemen had said that the old argument of saving the public money had been used. Mr. M. said he thought the argument a very good one on all occasions. On all occasions, unless a good reason could be assigned for spending the public money, it ought not to be spent. Suppose you raise the battalion. Experience will soon demonstrate its uselessness; and then you will discharge the men, and give them three months pay to go home with.

We have been told that in a certain event, not very improbable, the Western posts will be struck at, and we shall be obliged to go to war. Mr. M. hoped that the days of alarm were past, and the reign of terror over. From whom was this blow to come? He did not know any nation likely to strike at our posts. We had got, it was said, a treaty with France. If so, we had nothing to fear from that quarter. If no greater sum than forty-five thousand dollars was saved by the proposed reduction, he should still be for it, as he thought the additional battalion altogether useless.

Mr. KITCHELL made a few remarks, not heard, and concluded with moving the taking the yeas and nays, for which a sufficient number of members rose.

Mr. CHAMPLIN said, that he had been among those who thought the aggressions of France not only justified, but called for a declaration of war from us. He had been for taking the direct road. But as other gentlemen had differed from him in opinion, he had voted for the new regiment of artillery as a measure calculated, in connexion with other measures, to produce that, step by step, which he could not directly obtain. He had therefore voted for the additional regiment then as a temporary arrangement. But though, when first formed, he voted for the regiment as a part of the

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system of defensive measures, he now thought it would be permanently useful.

In reply to the remarks of gentlemen, Mr. M. could assure them that several officers had already been appointed. When, at the close of the last session, Congress had manifested a disposition to destroy every military arrangement, they had, notwithstanding, been impressed with the expediency of maintaining the two regiments of artillery. Nothing had since occurred to change his opinion.

Mr. RANDOLPH said that all the attention he had bestowed on the subject convinced him of the justness of the ideas expressed by the gentleman from North Carolina. The true question had been misrepresented. That did not consist in estimating, abstractly considered, in relation to a future period, the benefits or inconveniences attached to an increase in the establishment of artillery. The simple question was whether this additional body was necessary now. That it was not necessary he was fully convinced, as it had been dispensed with in periods of apprehension and danger. This conviction confirmed him in his adherence to those ideas which had been forcibly expressed by the member from North Carolina.

The House had been told by a gentleman from South Carolina, that from tenderness to the militia he would dispense with their services. In my opinion, said Mr. R., this is a mistaken tenderness, that neither he wished to manifest, nor did the militia themselves desire to receive. In a similar strain of affected tenderness a Roman Emperor had excused a Roman Senate from the exercise of their legislative duties, and had informed them that from a regard to their ease he would pass laws for them; and that Senate had abjectly returned their thanks to the Emperor for his kindness to them. He hoped that no similar proposition would be made to that House, or similar answer returned by them.

In his belief that this corps was unnecessary, Mr. R. was confirmed by the remarks that had fallen from the gentleman from Rhode Island. That gentleman had informed the House that the measure had received his approbation as tending to involve the country in a war with France: and was the House, at this day, to be called upon to adopt, piecemeal, those measures that had been framed for the production of this effect?

The gentleman from Massachusetts had sounded the tocsin of party, and had called upon a majority of that House to meet with firmness what he conceived an honorable political death. He had proclaimed his indisposition to recede from those dignified measures that had hitherto been pursued. Mr. R. confided in the integrity of the gentleman, and did not entertain a doubt of his receiving his most cheerful co-operation in that change of measures which he had portrayed as impending over the House; and he was happy to say, that if such a disposition were manifested by that gentleman, and by those who acted with him, it would be met by correspondent sentiments of harmony on his side of the House.

The question was taken that the House do agree

to the same, and it passed in the negative—yeas 39, nays 46, as follows:

YEAS—Willis Alston, Theodorus Bailey, Phaniel Bishop, Robert Brown, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, Samuel Goode, Andrew Gregg, William Barry Grove, John A. Hanna, Joseph Heister, David Holmes, George, Jackson, Aaron Kitchell, Michael Leib, James Lynn, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Randolph, John Smilie, John Smith, Samuel Smith, Richard Stanford, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Littleton W. Tazewell, Philip Van Cortlandt, and Joseph B. Varnum.

NAYS—George Baer, Bailey Bartlett, John Bird, John Brown, Christopher G. Champlin, William Cooper, William Craik, John Davenport, Franklin Davenport, John Dennis, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glen, Chancey Goodrich, Elizur Goodrich, Roger Griswold, Archibald Henderson, William H. Hill, Benjamin Huger, James H. Imlay, John Wilkes Kittera, Henry Lee, Silas Lee, Lewis R. Morris, Abraham Nott, Harrison G. Otis, Robert Page, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, Nathan Read, John Rutledge, jr., William Shepard, John C. Smith, Samuel Tenney, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Lemuel Williams, and Henry Woods.

Mr. MACON, from the Committee of Claims, made report on the petition of Mr. L'Enfant, that the petitioner had no just claim against the Government of the United States—which report was read a second time by unanimous consent, and agreed to without a division.

Mr. COOPER called up his resolution for appointing a committee, to inquire into the expediency of repealing the act directing the valuation of dwelling-houses, and enumeration of slaves.

On motion of Mr. OTIS, the motion was so altered as to make the reference to the Committee of Ways and Means, and then agreed to by the House.

On motion of Mr. COOPER,

Resolved, That a committee be appointed to inquire into the expediency of repealing the act, entitled "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves within the United States."

Ordered, That the said motion be referred to the Committee of Ways and Means.

THURSDAY, December 18.

Another member, to wit: JAMES SHEAFE, from New Hampshire, appeared, and took his seat in the House.

On motion of Mr. McMILLAN,

Resolved, That a committee be appointed to inquire into the situation of certain tracts of land which have been appropriated for the support of public schools and seminaries of learning, and for the support of religion, situated within the limits of a tract of land granted to John Cleves Symmes and his associates, in the Territory of the United States Northwest of the Ohio; and that the said committee take into their consideration what mea-

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asures are necessary to be taken in order to render the lands so appropriated productive of the benefits contemplated to result therefrom; and that the said committee have power to report thereon by bill, or otherwise.

Ordered. That Mr. PINCKNEY, Mr. IMLAY, Mr. VARNUM, Mr. MORRIS, and Mr. M'MILLAN, be appointed a committee, pursuant to the said resolution.

FRIDAY, December 19.

Mr. GRISWOLD, from the committee to whom was referred so much of the President's Speech as relates to the Judiciary of the United States, presented a bill to provide for the convenient organization of the Courts of the United States; which, having been read twice, was referred to a Committee of the whole House on Monday.

The Committee on Unfinished Business reported in part a list of certain laws relative to revenue which expired with the present session, and recommended to refer the expediency of continuing them to the Committee of Ways and Means. Which report, being read twice, was agreed to.

MISSISSIPPI TERRITORY.

Mr. CLAIBORNE laid before the House, a memorial of the House of Representatives of the Mississippi Territory, stating some inconveniences which had arisen from the want of authority in the Governor to issue writs of election, in case of improper returns; suggesting also the want of disposition on the part of Governor Sargent to have the General Assembly organized, and stating the advantage which would accrue to the Territory if an earlier day for the meeting of the Legislature was fixed by a law of Congress. The memorial was referred to Mr. CLAIBORNE, Mr. GOODRICH, and Mr. NOTT, with authority to report by bill or otherwise.

Mr. DAVIS moved the reference to the same committee of certain resolutions submitted by him to the House during the last session, but then not acted upon, stating the alleged existence of several unconstitutional laws in the Mississippi Territory, whereby unjustifiable extortions were practised on the citizens.

The resolutions were read. After the reading, Mr. GRISWOLD desired a postponement of the motion for a reference till Monday, which was agreed to.

MAUSOLEUM TO WASHINGTON.

Mr. H. LEE, from the committee to whom was referred the several propositions made commemorative of the services of GEORGE WASHINGTON, reported a bill for the erection of a mausoleum, differing in no other respects from the former bill reported, except as to the materials of which the mausoleum is to be constructed; the present bill directing it to be made of stone, the former one directing it to be made of marble. He said that the committee, after maturely considering the relative merits of all the plans proposed, had preferred the mausoleum, as well from its superior durability as cheapness, to any other.

The bill was read twice, and referred to a Committee of the whole House on Tuesday.

MONDAY, December 22.

AFFAIRS OF MISSISSIPPI.

The motion made on Friday by Mr. DAVIS, to refer to the committee to whom had been referred a memorial of the House of Representatives of the Mississippi Territory, on the official conduct of Governor Sargent, the following resolution, (concluding a specification of unconstitutional laws enacted by the Governor in conjunction with the Judges, and of sundry oppressive acts committed by him) viz: "*Resolved*, That the laws passed by the Governor and Judges of the Mississippi Territory, and the petition of Cato West and others, heretofore presented to the House, together with all the documents relative thereto, be transmitted to the President of the United States," was taken up; and, on the question of reference.

Mr. GRISWOLD said the whole subject, of which the resolutions now offered formed a part, was already referred to a committee. The charges laid in the resolutions were serious. To refer them would be to give an indirect sanction to their truth, and he thought any such sanction highly improper until they are proved. The committee already appointed had full power to investigate all the facts that existed. The result of their investigation would be reported, and it would then be time enough to express an opinion on the propositions now offered. These same resolutions had been offered to the House the last session, and had then been rejected. Mr. G. hoped the same course would now be pursued.

Mr. DAVIS said he had always thought that a committee, to ascertain facts, and to shape business for that House, proceeded from a knowledge, that a committee consisting of a few members could with more facility gain a knowledge of those facts than the House in its collective capacity could do. He could, therefore, see no good cause for withholding the resolutions from the select committee, who were appointed to consider the remonstrance from the Legislature of the Mississippi Territory. His resolutions contained facts, and he was ready to support them, from the documents before him. It would be criminal in the House to withhold from the committee any facts it was in their power to furnish. If this resolution contains misstatements, let the gentleman from Connecticut show them, and he would readily join in expunging them, so as only to let pure facts go to the committee. He wished no imposition; he wanted only a fair examination into the conduct of Winthrop Sargent, Governor of the Mississippi Territory, whose administration had been marked with so much restlessness and discontent, and he believed justly. At the last session of Congress some alleviation was intended to be offered to the distresses of this oppressed people; but their Governor had defeated the object by omitting to give notice of the election, as he ought to have done. He was enjoined, by the laws of the last session, to give notice of the election, and to appoint a judge

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or judges to attend it; he had omitted to do so, and had refused to issue a writ of election (doubting for the first time his power.) This conduct had drawn from their Legislature a remonstrance which required the further interposition of Congress, to enable them to organize their body. This remonstrance makes a general allusion to the unconstitutional laws made by the Governor and Judges; the resolution particularizes those laws, and will bring them in a precise manner before the committee. If gentlemen doubted the accuracy of the resolution, he would convince those, who were not opposed to conviction, that it was correct. [Here Mr. D. read several of the laws made by the Governor and Judges of the Mississippi Territory, and some clauses of the Federal Constitution to prove that the laws were unconstitutional.] Here then are abundant proofs of unconstitutional and oppressive laws, under which the people of that Territory labor, and of which they complain; and will this House afford no relief, from a tyrant, who has trampled on their rights with a tiger's stride; and plucked from them, by voracious and disgraceful laws, their hard earnings?

The Governor of that Territory receives annually a salary of two thousand dollars for his services, and each of the Judges a salary of eight hundred dollars per annum. This was supposed by the law a competent compensation; their acceptance of those offices for that sum acknowledges it to be enough; still you find laws here that give the Governor, a fee of eight dollars on tavern licenses, &c. As well might the President of the United States claim fees for giving patents or any other writing to which he affixes his name. The Judges of this Territory, who, conjointly with the Governor, made the laws have taken care of themselves. Hear their table of fees, giving to themselves fees for certain services, rendered by them in their Judicial capacity. And is not this a shameful abuse of the Legislative power they are vested with? [Here Mr. D. read the table of fees.] Congress cannot raise their own wages; the Constitution has wisely forbidden it, yet Winthrop Sargent and the Judges give themselves what fees they please, without regarding the spirit of the Constitution. If this resolution accompanies the remonstrance of the Legislature of the Mississippi Territory, the committee will be able to judge whether the Governor withheld the writ of election from a fear of exceeding his power, or whether he did it to prevent the organization of the Legislature; for had the Legislature been formed, those very laws by which he and the Judges satiate their avarice, would have been repealed.

The gentleman from Connecticut says, that the resolution contains direct charges against a man high in office, and this House ought not to sanction them until they are proved. I trust I have proved them by a reference to the laws now before me, and if they are not proved, let the gentleman take the laws and show wherein I am incorrect; and so much as is found defective, let him expunge. The gentleman says, that despotism is charged against the Governor. Why, said Mr. D., what stronger proof of tyranny or despotism

can you ask, than to see a man set no bounds to his conduct, and break through the limits set for him by the supreme laws of the land?

It is true this resolution was offered by me at the last session, but it was not rejected as the gentleman supposes—it was not acted upon; but if the gentlemen from Connecticut, and other gentlemen on this floor, after seeing that Winthrop Sargent has openly violated the Constitution of the United States, consider him a fit object to rally round; if, after they see he has violated the ordinance designed for the government of that Territory, they consider him a fit object for them to cling to; if after seeing the shameful abuse of the Legislative power vested in his hands, and his disgraceful avarice; if, after seeing and hearing all this, they consider that he acted consistently with Federal principles, and is entitled to Federal support, they will unite, and stifle this resolution here, and never let the committee see it. It may be that this resolution will be lost to-day, perhaps it would be to-morrow, but the time is approaching when the conduct of a public officer will not be veiled in this manner. The sun of Federalism is nearly set—not three months, and it sets forever.

If this resolution contained anything new or strange there would be some excuse for the objections made to a reference; but its having been presented during the last session must have imprinted the facts charged in it on the minds of every member present. Besides this, those complaints have been made from the first hour Winthrop Sargent came into office, and have been heard from one extremity of the continent to the other. It is a fact well known, that at the time this man was appointed Governor of the Mississippi Territory, he was hated and despised by the people of the Western country. His pride, his insolence, and tyrannical disposition, had rendered his name odious to the Western country. In this, the gentleman who represents the Northwestern Territory, and who was nearer the theatre of his actions than I was, can bear me witness. Still he was appointed. We felt indignant at the promotion of such a character by our Government; but we have guardedly repressed our resentment.

The object, however, for which this man was set over us, has not been accomplished. His mission has failed. Though we felt the just indignation of freemen, we had more wit in our resentment than to commit any extravagant acts that would authorize "the chief who now commands," to lead "a heaven-born band" among us. We were apprized of the disposition; we were apprized that an excuse was all that was wanted. But the reign of terror is almost at an end. If you want to conciliate the affections of the Western people, and to bring them over to your Administration, refer this resolution. If you do this, they will suppose that the complaints of their fellow-citizens are heard and attended to, and that there is a hope of speedy redress; but if you reject it, the reverse will be the effect.

You have no idea, said Mr. D., of the mischief this man has done in the Western country; particularly in the Mississippi Territory. His con-

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duct has reared a powerful opposition to your Administration, which will grow with our growth and increase with our strength, unless you remedy the evils that oppress our suffering fellow-citizens. His conduct has alienated the affections of the Western people from your Government; and this effect it will have while our fellow-citizens are suffered to complain unheard, and the conduct of their oppressor is justified. Ask a well informed man from that Territory, or from almost any part of the Western country, Why are you opposed to the administration of the Government? He will tell you in a moment, "I know, that Winthrop Sargent, Governor of the Mississippi Territory, has openly violated the Constitution of the United States in sundry instances. I know he has outrageously violated the ordinance of that Territory. I think he has shamefully exercised the legislative power put in his hands, by making it a cloak under which he has exacted the most exorbitant fees from the people to gratify his avarice. I know he has never received even a rebuke from the Chief Magistrate for all this. I consider Winthrop Sargent but a small vein of a great body; I am acquainted with the pulsations of that vein; I know it beats towards aristocracy; I know it swells with tyranny and despotism. I consider the great body that feeds this small vein as also contaminated." This will be the answer you will receive; and this will eternally be the language you will hear from those people, until you release them from the tyrannical bondage under which they are laid by the oppressions of their Federal Government.

Mr. OTIS was averse the last session, when this subject was before the House, to commit himself by a vote without possessing an accurate knowledge of the circumstances attending it. The same want of information under which he then labored he still felt. Casting his eyes over the resolutions just read he discovered that they contained two serious declarations; the first, that laws hostile to the happiness and prosperity of the citizens of the Mississippi Territory, and at variance with the Constitution, had been enacted; the second, that these laws had been passed under malignant intentions.

On the truth of these declarations Mr. OTIS was not prepared to decide. He required that information which the committee already appointed would be most likely to furnish. If the gentleman from Kentucky had moved the appointment of a committee, either to inquire into the expediency of repealing those laws that were complained of, or to report facts whereupon an impeachment could be grounded, he would have pursued the usual course; but when he commits a speech to writing (for by no other name could he designate the string of resolutions which he had moved) criminating in terms of harshness the conduct of a public officer, he considered him as proposing an unprecedented step. As well might he move to refer what had fallen from him in debate this day.

In his opinion, Mr. O. said, the subject desired by the gentleman from Kentucky could be ac-

complished with much greater propriety in the usual way, than in that now proposed.

But the gentleman asks, if the charges are true that are contained in the resolutions, why not pass them; if false why not expunge them? How, said Mr. O., are these charges proved? He confided in the veracity of the gentleman, and was persuaded that he would not say what he did not himself believe; but his belief could not impart to other gentlemen the same strength of conviction with himself.

If the people of this Territory are really oppressed, if they groan under the pressure of tyrannical and unconstitutional laws, let those laws be examined, and repealed. But when he found a gentleman coming from the neighborhood of the Territory, actuated by personal and local considerations, and animated by a zeal that dictated sentiments which in cooler moments the gentleman himself would not approve, he could not avoid hesitating in taking his opinion as the guide of his vote.

This sir, said Mr. O., is not a question of Federalism or anti-Federalism. If the sun of Federalism, as the gentleman from Kentucky asserts, be set; if the Administration be changed; may not such a measure as this strike back upon its authors, and produce a change in the tide of events. If the sun of Federalism be set, would it not be unkind in us, the very day after it, to suffer the gentlemen to injure themselves by such an act?

I hope, continued Mr. O., that the sun of Federalism is not set. If it really be set, I hope that the satellite which that gentleman inhabits will not soon experience the want of its animating and protecting influence. I believe it is not set, and ardently hope that that quarter of the Union, as well as all the rest, will long continue to feel its vivifying effects.

It might be proper to repeal the obnoxious laws, without branding with corrupt motives those who enacted them. Mr. O. concluded with declaring that in the accomplishment of this purpose, if examination and inquiry warranted it, as well as in every proper step to gratify the citizens of the Mississippi Territory, he would heartily concur.

Mr. RANDOLPH made some remarks on the reference of the *memorial* of the House of Representatives of the Mississippi Territory.

The SPEAKER said the question was on the reference of the *resolutions*, and not the *memorial*.

Mr. RANDOLPH replied that his observations had respect to a resolution founded on the *memorial*, and requested that it should be read.

The SPEAKER put the question whether it should be read, which was carried. And after the reading of those parts of the resolutions before the House which were requested to be read,

Mr. RANDOLPH again rose.—I do not find any assertion made in these propositions the truth of which may not be substantiated, by every member, from the documents before the House. The first proposition is predicated on the resolutions of the citizens of the Mississippi Territory; and with respect to the other propositions, which gentlemen say "may possibly be true," if they would give

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themselves the trouble of turning to the code of laws for the Mississippi Territory, which had been laid before them, in an official shape, by the President of the United States, they will find no charge founded on them that is not completely substantiated.

I do not consider the resolutions as covering dubious ground, but as resting upon firm facts; and the gentleman from Kentucky, who introduced these resolutions, ought to be contemplated as discharging his duty as a member of this House, as an upright citizen, and as a neighbor to the oppressed Territory. There is no misapplied feeling expressed in the resolutions; on the contrary, they contain little more than abstract propositions. I trust, therefore, that this House will throw no impediment in the way of examination. I trust they will be referred to a committee, and that such committee will present the whole affair before the people and the Government.

The Government was called upon, if it regarded its honor, to inquire into these charges. They were high and serious ones, and, if true, required immediate and decisive redress. The gentleman from Massachusetts ought to co-operate in the accomplishment of this end, without involving in the discussion considerations of Federalism, of which he may consider himself as the primary orb, and other gentlemen as the satellites.

Mr. OTIS explained. He made no such allusion, either to himself or the gentleman from Kentucky, of whom he had only spoken as of one who inhabited a satellite—meaning by that phrase Kentucky.

Mr. RANDOLPH.—I did not assert what the gentleman denies. I did not say the gentleman *actually did*, but *may*, consider himself as the primary orb.

I hope the House, after what I have said, will no longer be insulted by the declaration, on this floor, that laws *officially* communicated *may* have been passed. I hope that, in any event, effectual measures will be adopted, which shall not even wound the squeamishness of gentlemen.

When this officer was appointed, these charges were made and supported; the unconstitutional laws existed; still he was armed and fortified with destructive power.

Sir, said Mr. R., I never wish to blunt the sword of justice by directing it against innocence or virtue; I wish it only turned against the criminal. The object of the resolutions is to acquit Governor Sargent, if innocent—to convict him, if guilty. Is not this fair; is it not honorable; and ought not this House to promote it?

Mr. HARPER.—I apprehend that the honorable member has totally mistaken the course of the business. He was corrected when he rose, but he still persists in error. The people who complain ought to be heard; they will be heard; they will obtain justice. What is the object of the motion? Does it not embrace a string of resolutions traducing a high public officer? This was the object of it. There was no other object. If there be another, what is it? The motion is not in the form of an address to the President desiring from

him the removal of an officer who had violated his duty, but it offers you a string of preambulatory stigmatizing remarks, and concludes with directing certain laws, alleged to be unconstitutional, to be transmitted to the President. Does the President want these laws? Is he ignorant of them? Had he not them before we received them from him?

Are we then, by this side wind, to hint to the President that we wish the Governor of the Mississippi Territory removed? It would be more consistent with the ideas of honor expressed by the gentleman from Virginia, to come forward fairly and avowedly with such an address. Such a measure would certainly be novel, but still it might be right.

These were not the plain, fair means pursued for the attainment of an avowed end. The means were very different. They tended solely to the traduction by this House of a public officer.

The gentleman from Kentucky had called the Governor of the Mississippi Territory, after heaping reproaches upon his character, a vein of the great trunk. The allusion did not answer his purpose; but if it did, I will ask the gentleman, whether, even if the vein were removed, the great trunk would not still remain? The simile was, therefore, nugatory.

The same question had been before the House at the close of the last session. It had been then offered on the very last day. It had been laid aside. The same circumstances, then existing, attend it still. It is inherently the same.

The contents of the resolution had gone forth to the world. They had carried with them that weight that was derived from their having been offered by a member of this House. They struck at the honor and integrity of a man, who to the age of fifty-six years sustained a character, not only unimpeached, but embellished with many virtues. Though this character may be impaired by more recent incidents, since his appointment to the government of the Mississippi Territory, of which Mr. H. was entirely ignorant, all the charges now made were opposed by the preceding acts of his life.

Upon the whole, if a proper plan be pursued, instead of sanctioning these resolutions by a reference of them, a committee may be appointed, who may inquire extensively into the subject; after reporting to us all the information they can collect, the gentleman from Kentucky can add his, and a just decision be then made. This conduct will be more appropriate than any implied address to the President. For if the charges are true, we should be lost to political integrity, and should betray our trusts, if we did not immediately take higher ground; if we did not proceed *ad hominem*, and impeach the flagrant violator of his duty; and I pledge myself, that in such event, if no other member shall, to move his impeachment.

Mr. CLAIBORNE.—I cannot subscribe to the character given to Winthrop Sargent by the gentleman from South Carolina; and when that gentleman calls him amiable, I can only tell him that such an opinion is opposed by the united voice of

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the Western world. But on this subject I must forbear, for with the whole part of Western America I have feelings that would hurry me into an expression of sentiments which a member of this House should not indulge.

The gentleman from South Carolina was not truly informed on this subject. The memorial, on which some of the charges were made in the resolutions offered by the gentleman from Kentucky, was addressed to Congress, and not to the President of the United States. It was fair to suppose that the President was unacquainted with its contents; for had he known them, it were to be hoped, that, for the sake of vindicating the rights of an oppressed people, he would have removed their tyrants.

The gentlemen from South Carolina and Massachusetts declare themselves averse to the reference of the resolutions, lest by it they should give a sanction to the charges preferred. But does the House sanction the facts set forth in a petition by referring it? Do they not, on the contrary, refer for the very purpose of ascertaining them? Was not this the case every day? Was such a resolution or petition, on this ground, ever before opposed? If it had been, it was not since he was a member of this House.

If the resolutions be referred, what will be the effect? If the charges exhibited are found to be untrue, the investigation will terminate in the triumph of innocence; if, on the other hand they are proved to be true, he would proceed further—as far as the gentleman from South Carolina—and apply a Constitutional corrective. By a Constitutional corrective, he meant an impeachment; and he would not only have this man punished as a tyrant, but he would hold forth his punishment as a terror to others.

Mr. GRISWOLD.—The remarks made by the gentleman go to show an indisposition in members of this House to investigate the subject. This is not the fact. We say that the investigation is in a train of being made. The petition of Cato West, and the memorial of the House of Representatives of the Mississippi Territory, have been referred; under these circumstances, the subject generally is before the committee. To go further at present, would, we say, be wrong. For if we do refer also the facts stated in the resolutions, we take it for granted that they are true, and refer to the committee the expediency of adopting an inference from them. The facts charged might be true, for anything Mr. G. knew. He knew not whether they were true or not. He knew nothing of Winthrop Sargent; he was no acquaintance of his. But, Mr. G. said, he was swayed by higher motives than those which were personal. He knew that the House had no right to pass censure upon any man, until his conduct had been fairly investigated, and his criminality proved. Then, and then only, had they a right to pronounce upon the character of any man.

Never before had he seen a resolution prefaced by such a number of *whereases*, only tending to place the character of this man upon the rack. This was introducing an old principle—a princi-

ple which it was our boast that we had discarded. A rack was brought into this House—not, as of old, to rack the body, but what was still worse, to rack the mind.

Gentlemen say the charges are either true or false; if false, refer them to a committee, and that committee will, on inquiry, tell you so, and thus you will get rid of them; and if true, they ought to be acted upon by this House. But who could depend upon their truth? Few members had investigated them in such a way as to form an honest conviction. If they shall appear to be true, after a faithful inquiry, the course proposed by his friend from South Carolina ought to be taken. The culprit should be summoned before the bar of this House, and should be impeached.

Mr. G. concluded by repeating that he was against the resolutions; not because he was averse to an investigation, but because he felt averse to censure any man for offences uninvestigated and unproved.

Mr. HARPER here explained what had fallen from him in a previous part of the debate. He had not said, or, if he had said, it had not been his design to say, that these resolutions were intended to traduce the character of an individual, but that such were their effect. He knew nothing about the intention of the mover.

Mr. DENNIS thought the question then before the House an improper one. For, whether adopted or rejected, it would inadequately express the opinion of members. On the one hand, it was contended, that if agreed to, it would contain a sanction of the truth of serious charges against the character of a public officer; and if rejected, it would express an opinion that those charges were false. Mr. D., who was not prepared either to approve or condemn the conduct of Winthrop Sargent, hoped the House would pursue another course; and if, in conformity to his wishes, the resolutions then offered should be dismissed, he would himself propose a more general resolution, for the appointment of a committee to inquire into the official conduct of Winthrop Sargent, and report to the House the result of their inquiries. Such a resolution would convey neither approbation nor censure; and it would be free from that long string of preambles which prefaced the present resolutions. These were certainly improper; for, however gentlemen might concur in certain general deductions, few men agreed in all points in the reasons assigned for any particular act.

Mr. CRAIK thought the object of the resolution itself improper. He desired to know in what part of the Constitution was to be found the right to move for the dismission of a public officer, or to impose a censure upon him? What was the view of the mover of the resolutions? He had not said that his object was to impeach. On the contrary, his real object appeared to be to obtain from this House an expression of their censure against a high public agent; and by the expression of such censure to effect his removal. Such a step would be improper. It involved in it the exercise of powers which we did not possess. If the object of the gentleman, as professed, was to com-

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municate information to the President, this object could be attained by the gentleman by his withdrawing the papers then before the House, and delivering them, in the capacity of a private citizen, to the President, who alone was authorized by the Constitution to remove a public officer, except by impeachment.

Mr. DAVIS.—The opposition to these resolutions has assumed various shapes. One gentleman is startled at the long preface, another is alarmed at the number of *whereases*, and others say that by referring them, you will sanction the truth of the charges. This was not the case. They stand upon the same footing with any petition presented, which always contains some facts, to test the truth of which a reference is invariably made. The reference amounts to nothing more than an acknowledgment by this House that it is their duty to hear the complaints of the people, and when heard to inquire into their truth. Will not the committee, when appointed, compare the charges made with the facts that are proved, and from such a comparison make a report; and will not that report be open to examination, revision, and amendment, by any member of this House?

The gentleman from South Carolina, as was usual with him, had made remarks on this subject, without knowing where to begin; and had asked if the laws complained of had not been presented by the President to the House? It was certainly true that they had been so presented. But this was saying very little for the President, when it admitted that the President had seen the laws that violated the Constitution, and oppressed the people, without checking the officer who had usurped unconstitutional power, and exercised flagrant oppression.

The gentleman from South Carolina had cailed the charges contained in the resolutions mere assertions. Mr. D. denied the truth of the remark. There was not a charge made that was not proved. If he had told the House that he had laid hold of the threads of a conspiracy, he might have been charged with making mere assertions.

Mr. D. was not acquainted with the early character of Winthrop Sargent. But he was acquainted, which was more material, with his late and present character. He did know that in his recent actions he had exhibited the character of a tyrant. It was very probable that before he was corrupted by power he was a virtuous man. But with him, as with many other men, no sooner had he got power, than he assumed the character of the tyrant, and oppressed those whom he had been appointed to protect.

Mr. D. cared but little for the present fate of his motion; for, let the House decide as it would on this day, a proper decision would soon be had. The reign of terror in this country would soon reach its end.

Mr. MACON.—The subject already referred does not embrace the contents of this resolution. The memorial from the House of Representatives of the Mississippi Territory only relates to the election for Washington county, and the conduct of the Governor in relation to it; whereas the charges

on which this resolution is founded are numerous and dissimilar.

The subject had been, last session, introduced at a late day, and had from that circumstance been laid aside. He was then convinced, and still was convinced, that the charges are true. They are specially stated and supported by a reference to their proofs. Can more be required? Why not then refer them? Will not a committee inquire into their truth? and should they be found untrue will not the committee say so? A reference presented the only course whereby justice could be done to those who complain; to the country at large; and to the individual criminated.

It appeared to Mr. M. that it became that House to be more attentive to these charges, as they came from a territory unrepresented in our Federal Councils.

Gentlemen say, impeach this officer, if guilty. Could there be a more appropriate mode of leading to this effect, than by the appointment of a committee, on whose reported statement of facts the House would be justified in acting? This had been the uniform mode. It had been practised in the case of the failure of the Western expedition under St. Clair. A committee had been appointed to inquire into the subject; though he granted that he did not recollect that the word *whereas* (so much objected to on this occasion) had been then used.

Nothing had been more common than to appoint a committee, and then give them certain instructions; this resolution was nothing more. But we are told from all quarters that we cannot pass the resolution without sanctioning the charges, and staining the character of Governor Sargent. It was not so. Gentlemen were mistaken. A reference involves no opinion, other than that a subject may be better investigated by a select committee than by this House.

Mr. HARPER asked whether it was in order to amend the resolution.

The SPEAKER answered that it was.

Mr. HARPER.—I then move to strike out the whole of the preamble, and so much of the resolution that follows, as to make it read, "that a committee be appointed to inquire into the official conduct of Winthrop Sargent, which shall be authorized to send for persons, papers, and records."

Mr. H. declared his object was to bring about an impeachment of Governor Sargent, if he appeared on investigation to be guilty.

Mr. CLAIBORNE said he admired the object avowed by the gentleman from Massachusetts; but he then rose to ask the Speaker whether the amendment was in order.

The SPEAKER said it was.

Mr. EGGLESTON.—I hold in my hands the rules of the House, where I find it declared that a motion for commitment shall preclude all amendment.

The SPEAKER, after some hesitation, said it certainly was so.

Mr. RUTLEDGE said gentlemen all seemed to agree as to the essence of the case, but to differ on the mode. He thought the instance referred

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to by the gentleman from North Carolina fully in point, and altogether against him. In that case a committee had been appointed barely to inquire into the causes of the Western expedition. The resolution had not been prefaced by a long preamble; it had not ascribed motives of cowardice, or other reprehensible motives to General St. Clair. The subject seemed to be entangled by the rules of the House. He approved the mode recommended by his colleague, and for the purpose of attaining that he would move the previous question.

The previous question was then put, viz: "Shall the main question be now put?" Which passed in the negative—ayes 36, noes 48.

Mr. HARPER then moved to strike out the preamble.

Mr. MACON moved a postponement of the question till to-morrow; motion lost.

Mr. KITCHELL moved an adjournment.

Mr. THATCHER.—If we adjourn till to-morrow, when we meet then, what will be the question before the House? We have decided that the main question shall not be put; can that then be the question? Where will it be? Where shall we find it?

Mr. HARPER called to order; on a motion to adjourn there could be no debate.

Motion for adjournment lost.

Mr. DAVIS moved a commitment of the amendment to a select committee.

The SPEAKER declared the motion not in order.

Mr. DENT asked if it was not in order to commit the motions of both the gentlemen from Kentucky and South Carolina to a committee.

The SPEAKER said a vote on the main question had just been put.

Mr. EGGLESTON said the vote had been on the previous question, and not the main one.

The SPEAKER acknowledged that it was so, but declared the proposition of Mr. DENT out of order.

The question was then taken on striking out the preamble, and carried—48 members rising in the affirmative.

Mr. HARPER then moved to amend the concluding resolution moved by Mr. DAVIS, by striking it out, and introducing in its room the motion already stated as made by Mr. HARPER.

Mr. RANDOLPH desired to know, whether it was in order to move an amendment to the amendment of the gentleman from South Carolina.

The SPEAKER said it was in order.

Mr. RANDOLPH then moved the reference to the committee of the laws, documents, and other papers accompanying them.

The SPEAKER said that appeared to him to be the amount of the original resolution.

Mr. RANDOLPH replied that the original resolution was for the transmission of them to the President.

The SPEAKER acknowledged that it was so; and stated the motion of Mr. RANDOLPH.

Mr. CHAMPLIN thought the motion out of order.

Mr. HARPER rose to call the gentleman to order. The Speaker had already decided the motion to be in order.

The SPEAKER again pronounced the motion to be in order.

A desultory debate ensued between Mr. RANDOLPH, Mr. GRISWOLD, Mr. HARPER, and Mr. NOTT—Mr. HARPER's motion under consideration.

Mr. RANDOLPH would say, however hazardous the remark, that the House had never been more idly employed than on this occasion. All the gentlemen who have spoken against the original resolution of the gentleman from Kentucky, say they are agreed to the thing, but they dispute with tenacity every mode that we point out for accomplishing it. Whichever way we proceed, their ingenuity meets us at every step; and thus they strive to baffle every motion whose object is a fair and full investigation.

Mr. R. thought the direct point should be directly aimed at. The committee proposed to be appointed by the gentleman from South Carolina, uninstructed as to what charges they are to investigate, may be as blind as the gentlemen themselves who had spoken. He hoped, therefore, the House would compel them to take them into view.

Mr. RUTLEDGE was in this stage of the business opposed to the amendment of the gentleman from Virginia, though he had no objection to agree to it, after the motion of the gentleman from South Carolina was agreed to.

Mr. DAVIS appealed to gentlemen, whether they were serious in wishing to send for persons and papers? Could they expect to get them during the session from a country 1,700 miles off?

The SPEAKER called to order. The main question was not before the House. Whatever was said must be on the amendment.

Then, said Mr. DAVIS, I will say nothing about it, and sit down.

The question on Mr. RANDOLPH's motion was then put and lost—ayes 29.

Mr. CLAIBORNE moved to strike out of the motion made by Mr. HARPER, the words, "to send for persons, documents, and papers." His motion was dictated by a desire to obtain speedy justice for this oppressed people. The necessary proofs were before the House. If the committee were tied up from making a report until a message had been sent to, and returned from, the Mississippi Territory, he should despair of justice overtaking this man. The committee may certainly immediately inquire into the subject; and, from the documents that would be laid before them, they would be able to act with effect without much delay or great expense. To test the sincerity of gentlemen he moved to strike out those words.

Mr. HARPER said that the motion carried an implication that his friend from Tennessee would not be willing to allow—either that a criminal might escape unpunished, or an innocent man be punished. Suppose the committee think the charges insufficient for the object of removal or impeachment, and yet they are of opinion that they are sufficient to justify strong suspicion and presumption of guilt, would it not be desirable to invest them with the right of making further in-

quity? Suppose, on the other hand, that the charges appear to them true, had not the experience of ages justified the propriety of the maxim *audi alteram partem*? How can this dilemma be surmounted but by imparting to the committee all the powers required for making a full and fair inquiry? Unless this be done you may convict the Governor without testimony, or dismiss him, though you think him criminal.

Mr. SMILIE.—If extortion has been practised by Winthrop Sargent; if unconstitutional laws have been passed, it is the duty of Congress to interpose its authority, and redress these great evils. In such cases delays are dangerous. He was, therefore, for those measures that provided the most immediate and effectual remedy.

Mr. CLAIBORNE.—The gentleman from South Carolina has done justice to my feelings in supposing that I would recoil at the idea of punishing an innocent man. I would recoil at such an idea. But the testimony upon which I stand forbids the indulgence of such a fear. Before the exhibition of the documents I had suspicions; but now I have convictions. The unconstitutional laws, officially communicated, are proofs whose authority I dare not resist. They are before the House; any member may read them. I deny, pursuing the course we wish to pursue, that Winthrop Sargent can be punished unheard. The committee, after solemn inquiry, will report to us a statement of facts, on which an impeachment may be grounded; and when impeached, Winthrop Sargent will be heard in his defence, and your managers may be empowered to send for persons and papers. Let gentlemen who hesitate on this subject, recollect that a delay of justice is often equal to a denial of it.

Mr. C.'s last words were scarcely uttered, when a person in the gallery clapped.

"Sergeant," said the SPEAKER, "see to that man!"

[The Sergeant went into the gallery and took the person out, without resistance. He was kept in confinement by the Sergeant for about two hours, in consequence of which, and the loss of his horse, which he had fastened to a shed near the Capitol, and which was not to be found when he was released, he that very day obtained a warrant from a magistrate against the Sergeant-at-arms for illegal confinement.]

Mr. CRAIK wished a full inquiry to be made, and of course thought the committee ought to be empowered to send for persons and papers. This measure, in his opinion, so far from evidencing an indisposition to meet the subject, was the strongest evidence of the sincerity and adherence to justice of those who supported it.

Mr. NOTT considered the point in dispute as of little, if any, importance.

Mr. GRISWOLD hoped the words would not be struck out; for if they were struck out the effect would then be that the committee should not send for persons or papers. He was astonished at the ideas of some gentlemen. Could they expect this House to be governed by the opinion of any one member, who tells them that, in his opinion, cer-

tain facts exist that criminate a high public officer? If the documents are thus decisive, the committee need go no further; if not decisive, shall they substitute the opinion of the gentleman from Tennessee in the place of their own convictions? He hoped not. If gentlemen are serious in the expression of their wishes for a fair inquiry, let them give the committee full powers.

Mr. MACON asked gentlemen in favor of retaining these words, to consider the distance to which they would have to send, which was 1,700 miles, and to calculate the time occupied in going and returning from the Mississippi Territory, and then to say whether a return would not be impracticable during this session. He thought it would, and for this and other reasons, was for an immediate inquiry.

Mr. BIRD.—Is it the intention of gentlemen that the committee they wish appointed shall be exclusively guided by those documents, which they, as accusers, hold in their own hands? Is this their idea of justice? If it were, he differed widely from them.

Not a proposition had been made by gentlemen who desired such an inquiry as justice prescribed, but had been clogged by the suggestion of imaginary difficulties, and tortured into the most perverse meaning. It was strange that gentlemen of such talents should, after wandering so long round a meander, not half an inch in diameter, come at last to the simple resolution, which appointed a common committee with common powers. He called them common, for every committee appointed on such a subject have similar powers. It was presumption to suppose, as the arguments of gentlemen did suppose, that the committee about to be appointed will desire to exculpate Winthrop Sargent. Was it candid to imply that they would be corrupt? The supposition of a denial of justice went on the idea that they would violate their duty in screening from punishment a criminal. If the laws are unconstitutional the committee will say so. But having done this, there remains a duty still more important—they must go into the intentions of Winthrop Sargent. How could they be ascertained but by that comprehensive investigation that would be derived from examining persons and papers? Why, then, deny this authority in the first instance, when it will ultimately be necessary? The ideas on which it was opposed, such as the distance and the time it would require, were frivolous, such as he could neither admit as reasons, or argue from as premises.

Mr. RANDOLPH.—The gentleman who has just sat down, has impeached with unwarrantable acrimony the purity of our motives and our candor, because we differ from him on the course proper to be taken on this subject. Mr. R. was truly sorry that the gentleman had suffered such an accumulation of rancor to collect in his mind, as he had just poured out upon his side of the House. Every imputation hurtful to a feeling mind had been lavished. Since then, said Mr. R., the gentleman has become the *ensor morum* and inquisitor of our hearts, permit me to draw the outlines of theirs.

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The gentleman, after an unbroken silence during the whole debate, rises and tells this House, that they have spent their time most fruitlessly and idly, and that after wandering for hours round a meander not half an inch in diameter, they had got back to the very point from which they had started. Did that gentleman recollect that the half-inch meander of which he spoke, designated the understanding of those with whom he acted, who, perpetually moving in a circle, after all their labors, arrived at the point from which they first set out?

Instead of uniting with us in an inquiry into those serious charges you have heard; instead of aiding us with their talents; instead of performing their duty, gentlemen satisfy themselves with holding up before us a mere *ignis fatuus*. Under the idea of desiring a substantial investigation, they are converting us into a jury on life and death; and they will not suffer us to take a single step to bring a criminal to justice, without previously possessing the most incontrovertible proofs of his guilt. It is in vain that we answer that we are an initiating body, and that our present measures lead to that stage of the business in which legal testimony will be required; still, deaf to our reasons, they call up expedients that can only tend to defeat the measure, and have the boldness to tell us that we are moving in that very meander which they themselves occupy.

Gentlemen on this subject are unusually hard of hearing. They will not hear, or, if they do hear, they will not regard the passage of laws putting money into the hands of the Governor and Judges; laws warranting various descriptions of extortion: laws violating the Constitution of the Territory. These grievances are sounded in their ears; they are informed of the necessity of immediate redress; of the danger of unredressed oppression, and they still continue to talk of justice, and yet recommend nothing but what will delay, and, perhaps, defeat it. They may talk then of justice, and of their regard to the Constitution, as they please; the people will consider a delay of justice as a denial of it; they will say that the present Congress intend to do nothing.

A motion was made to adjourn, and lost.

Mr. CLAIBORNE's motion to strike out the words "to send for persons, documents, and papers," was then put and lost.

Mr. RANDOLPH moved to postpone the question till the 3d day of March; the motion was lost.

The question was then taken on Mr. HARPER's amendment by yeas and nays, and carried—yeas 70, nays 11, as follows:

YEAS—Willis Alston, George Baer, Bailey Bartlett, John Bird, Phanuel Bishop, John Brown, Robert Brown, Christopher G. Champlin, Gabriel Christie, Matthew Clay, John Condit, William Cooper, William Craik, John Davenport, Franklin Davenport, Thomas T. Davis, John Dawson, John Dennis, George Dent, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glen, Samuel Goode, Chauncey Goodrich, Elizur Goodrich, Edwin Gray, Roger Griswold, William Barry Grove,

Robert Goodloe Harper, Joseph Heister, Archibald Henderson, William H. Hill, David Holmes, Benjamin Huger, James H. Imlay, Aaron Kitchell, John Wilkes Kittera, Silas Lee, Michael Leib, James Lynn, Peter Muhlenberg, Abraham Nott, Harrison G. Otis, Robert Page, Thomas Pinckney, Jonas Platt, Leven Powell, John Randolph, John Reed, Nathan Reed, John Rutledge, jun., William Shepard, John Smilie, John Smith, John C. Smith, Richard Stanford, James Sheafe, Samuel Tenney, George Thatcher, John Chew Thomas, Richard Thomas, John Trigg, Littleton W. Tazewell, Philip Van Cortlandt, Joseph B. Varnum, Peleg Wadsworth, and Henry Woods.

NAYS—Theodorus Bailey, William Charles Cole Claiborne, Joseph Eggleston, Lucas Elmendorf, Andrew Gregg, George Jackson, Matthew Lyon, Nathaniel Macon, Thomas Sumter, Benjamin Taliaferro, and Abram Trigg.

The resolution, as amended, was then agreed to, and referred to Messrs. HARPER, CLAIBORNE, C. GOODRICH, NOTT, DAVIS, BIRD, and OTIS.

Mr. RANDOLPH moved that the laws passed in the Mississippi Territory, and the petition of Cato West, and others, with the documents, be referred to the same committee; which motion was agreed to.

Mr. HARPER moved that the committee, to whom had been referred the memorial of the House of Representatives of the Mississippi Territory be discharged, and that the memorial be referred to the committee appointed to inquire into the official conduct of Winthrop Sargent; which was agreed to.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, accompanying a report of the Commissioner of the Revenue, and sundry statements respecting the internal revenues of the United States, in pursuance of an act of Congress passed on the eleventh day of July, one thousand seven hundred and ninety-eight; and of a resolution of this House, passed on the sixth day of January, one thousand seven hundred and ninety-seven; which were read, and ordered to lie on the table.

TUESDAY, December 23.

Mr. HARPER observed that experience had proved the existence of some deficiencies, as well as inconveniences, in the provisions of the bankrupt law. He therefore moved the appointment of a committee to inquire whether any, and if any, what amendments are necessary to be made in an act for establishing a uniform system of bankruptcy throughout the United States.

Carried, and a committee of three appointed.

On a motion made and seconded that the House do come to the following resolution:

Resolved, That the President of the Senate and Speaker of the House of Representatives be, and they are hereby, authorized to adjourn the respective Houses on this day, to Tuesday, the thirtieth instant."

The question was taken that the House do agree to the same, and resolved in the affirmative.

Ordered, That the Clerk of this House do carry the said resolution to the Senate and desire their concurrence.

A message from the Senate, informed the House that the Senate have agreed to the resolution of this House for an adjournment of Congress, to Tuesday, the thirtieth instant.

A memorial of sundry inhabitants of the Northwestern Territory, residing on lands purchased from John Cleves Symmes, was presented to the House and read, praying that the said Symmes may be allowed to complete his contract with the United States, or that such other relief may be granted to the memorialists, as to the wisdom of Congress shall seem meet. Referred to the committee appointed, on the eighteenth instant, to inquire into the situation of certain tracts of land which have been appropriated for the support of public schools and seminaries of learning, and for the support of religion, situated within the limits of a tract of land granted to John Cleves Symmes, and his associates, in the Territory of the United States Northwest of the Ohio.

A petition of the messengers and office-keepers of the several Departments of State, of the Treasury, of War, and of the Navy, was presented to the House and read, stating the insufficiency of the compensation allowed them by law; and praying that the same may be increased, and rendered more adequate to their services. Referred to Mr. OTIS, Mr. TALIAFERRO, and Mr. WOODS.

A petition of Charles Tomkins, in behalf of the parties concerned, was presented to the House, and read, stating that, by a resolve of Congress, passed the first of October, one thousand seven hundred and eighty-seven, one complete and entire township of land, subject to the reservations as in other townships, agreeably to an ordinance of the twentieth of May, one thousand seven hundred and eighty-five, was granted to Arnold Henry Dohrman, and by said resolve he was permitted to make choice of the said township, out of any of the three last ranges surveyed; that the said Dohrman after having made his election of the thirteenth township, in the seventh range, has been under the necessity of assigning his right to the said land, for the benefit of his creditors; but that, on application at the office of the Secretary of State, by the trustees of the creditors of the said Dohrman, for a patent, it appears that there is no authority under the present Government for granting the same; and praying relief in the premises. Referred to the Committee of Claims.

MAUSOLEUM TO WASHINGTON.

Mr. H. LEE moved the going into a Committee of the Whole on the bill for erecting a mausoleum to GEORGE WASHINGTON.

On this question the House divided—yeas 42, nays 34.

Mr. MORRIS took the Chair, and read the bill by paragraphs.

Mr. H. LEE said the merits of the bill had been so often discussed, and the subject was so delicate, that he would not again offer his sentiments generally on it. As it was the opinion of several members, that the dimensions of the mausoleum should not be fixed in the law, but that they should be governed by the sum appropriated, he moved to

strike out "100 feet at the base and of proportionate dimensions."

The motion was agreed to.

Mr. H. LEE then moved an amendment confining the ground on which the mausoleum should be erected to public property.

Mr. HARPER opposed the amendment, which was lost, only 31 members rising in favor of it.

Mr. H. LEE then moved to fill the blank, fixing the sum to be appropriated for erecting the mausoleum, with \$200,000.

Mr. SMITH said he hoped the House would not with its eyes open go into a measure that might involve incalculable expense. It was proposed to appropriate \$200,000. This was probably but a small part of what would be ultimately required; and when the thing was once begun, it must be completed, cost what it would. If the architect would give security for accomplishing the work for \$200,000 he would not be so much opposed to it. But, as it stood, he was opposed to it, as a useless expenditure of public money.

Mr. HARPER said the old story was again rung in their ears. An object, in itself, highly important, was proposed, and, forsooth, because it cost some money, on the ground of economy it must be rejected.

He would ask the gentleman just up whether he knew anything about the expense of a mausoleum? And yet not professing to be informed, professing indeed to know little, he had put his vague conjectures in the room of estimates formed with deliberation by artists of the first eminence. These clamorous objections were well understood. Their sole object was *ad captandum vulgus*; to create alarm about what was termed useless expense. They were intended for nothing else.

To satisfy the solicitude of gentlemen an artist of talents universally acknowledged had been desired to furnish an estimate; which estimate stated that a pyramid of 100 feet base would cost \$67,000. This was the estimate of an artist of such accuracy that in the greatest work ever undertaken in America, and the greatest, perhaps of its kind, ever undertaken in the world, (he alluded to the water works of Philadelphia,) the expense actually incurred had fallen short of the estimate. The same accuracy had characterized his plan and execution of the Bank of Pennsylvania, which was probably the greatest work of the kind executed in this country. And yet the gentleman from Pennsylvania will place his vague doubts, and (Mr. HARPER begged pardon for the expression) his total want of knowledge against the calculations of a man of practical science.

The gentleman had asked whether any one could be found, who would be responsible for the execution of the work for the proposed sum. Mr. HARPER said, if it were proper for a member of that House to say so, he would undertake himself to erect a mausoleum of 150 feet base, and 150 feet high, for \$200,000; and for the performance of his engagement he could give the most unquestionable security, such as every member of that House would approve. He further believed that the artist before alluded to, if required, would give the

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necessary security. The accuracy of the estimate had been tested by every circumstance that the nature of the case admitted. The same course had been pursued, in this case, that every reasonable man was accustomed to take in his own private concerns. Every such individual, who designed building a house obtained first an estimate from a skilful workman, which satisfied him. If men acted not in this way, there could be no progress in human improvements.

After this information, furnished by such an artist, gentlemen ought to be satisfied without opposing to it their own crude conceptions; and Mr. HARPER said he hoped they would cease to talk on a subject on which they were so ignorant, until they became better informed.

Mr. MACON did not see the subject in the same light with the gentleman from South Carolina. He was disposed to pay the greatest respect to his talents, but he could not give up his own opinion. The estimate made by the artist amounted to \$140,000; yet the gentleman from Virginia required \$200,000. Does not this show that the gentlemen themselves have not confided in the estimate of the artist?

Mr. H. LEE explained, and said that he thought the most proper plan for adoption was that of Mr. West; pursuing that plan \$200,000 might be required, as there would be interior arrangements to make, additional to those contemplated by the estimate.

Mr. MACON said he thought \$140,000 would be sufficient. He knew not how to reconcile the difference between the estimate made in Philadelphia and that made in Washington; the first was only \$67,000; which was a sum much below any calculated here. He did not pretend to any information on this subject, and the various modifications the bill had undergone convinced him that no member was well acquainted with it. The estimates differed materially from each other. They could not therefore all be correct. He could not, from these considerations, feel confidence in the estimates of the gentleman from South Carolina, or the other gentleman; for if they really possessed correct information, how came they so radically to differ; and the committee itself to propose so many alterations in the original bill?

Mr. SMILIE replied to Mr. HARPER. The object of his remarks was to show that Mr. H. possessed as little information on the subject as himself.

Mr. RUTLEDGE.—The substance of what the gentleman says, is that he wants to do nothing. He had long thought so, and he was now confirmed in his opinion. When the man, whose loss the world deplored, departed from us, we were all shrouded with sorrow; the mournful event awakened our deepest regrets; and resolutions expressive of the national affliction at his death, and commemorative of his services, were unanimously passed by both Houses of Congress. Those resolutions were not carried into immediate effect owing to the disagreement of the two branches of the Legislature. Now, when we propose to carry them into effect, objections are started to every measure offered; objections that rise eternally in

our horizon; which, whenever we pursue, fly from our reach, and which, always moving in a circle, we can never overtake.

Gentlemen tell us they are unaccustomed to spend public money without estimates. To satisfy the vigilance of their economy we obtain them. They then tell us they are inaccurate; their objection arises from a want of detail; they wish a minute statement of each separate charge. Again we consent to gratify their wishes, anxious for their sanction to our measures, that they may express the unanimous sentiment of Congress. We produce an estimate as minute as was ever furnished by an artist on any occasion. The total amount of estimated expense is \$140,000, and to avoid the necessity of calling on Congress again, the gentleman from Virginia asks for \$200,000.

Still after all our trouble and solicitude to satisfy the scruples of gentlemen, they continue to urge objections. One gentleman says the estimate made at Philadelphia differs from that made here; another gentleman will not confide in any estimate, and another wants security.

Does it become the dignity of the House thus to be occupied with trifling objections on such a subject; and, in the spirit of bargaining, to waste its time in saving a few dollars?

Many gentlemen, anxious for this measure, had agreed to postpone the consideration of it, hoping thereby to accommodate other gentlemen in their views, and expecting ultimately an unanimous vote. But he now abandoned it. He saw no period to objections. Much time had already been idly wasted. They had delayed too long to do what ought to have been done at once. Let us then take the question at once, and get rid of it, though a veto should be passed upon the bill.

The question was then taken on filling up the blank with \$200,000, and carried—yeas 41, nays 38.

Mr. DENT moved to amend the section appropriating the sum, by substituting the word "for" in the room of the word "towards," which would fix the whole sum to be appropriated instead of leaving it uncertain.—Agreed to.

The Committee then rose and reported the bill as amended. On the question to agree to the \$200,000 appropriated, the House divided—yeas 41, nays 38.

The SPEAKER then put the question on engrossing the bill for a third reading.

Mr. CLAIBORNE was opposed to the engrossing of the bill. He hoped no gentleman would ascribe his opposition to a want of respect to the memory of our great patriot. His respect for this illustrious character had been almost coeval with his life, and would follow him to his grave.

He was opposed to a mausoleum, because it would not be so respectful to the memory of WASHINGTON as the equestrian statue directed by the old Congress, who had directed the battle during our Revolutionary struggle, and for whose character he felt the highest veneration. The present Government could not refuse to carry into effect this act of the old Congress without a violation of moral principle. He preferred a statue to a mausoleum, because the former, from representing the

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form and the features, would inspire the beholder with more lively emotions than a mass of stones formed into a pyramid.

Were the expense of a statue greater than that of a mausoleum, he would, notwithstanding, prefer it; but he believed the reverse would be the fact. He not only wished a statue raised, but also was in favor of an immediate appropriation for depositing the remains of our departed friend within these very walls, in such a manner as would not disgrace them.

Mr. CHAMPLIN had heretofore voted from a spirit of conciliation. He was now not a little surprised to find the gentlemen from Tennessee and South Carolina (Mr. CLAIBORNE and Mr. ALSTON) opposed to a mausoleum, though their names appeared, from an inspection of the journals of last session, among those who were then in favor of it.

He considered a mausoleum as preferable to a statue, because the first was calculated to celebrate all the virtues of the statesman as well as the hero, while the latter would be limited to his military exploits.

Great opposition had been made to the erection of a mausoleum, with the professed view of avoiding expense, and I admit generally that economy ought to be observed, in the expenditure of public money. But on an occasion highly interesting to the feelings, and deeply involving the character of the nation, even the appearance of parsimony should be carefully avoided. It is necessary to consider the nature and magnitude of the object for which money is required. It is not asked for, in the present instance, to commemorate a man distinguished only on the field of battle. It is not wanted to gratify family pride, or to raise a monument of despotic power and slavish submission. It is to be furnished by a great and free people, to record, in a manner worthy of themselves, their gratitude for the important services rendered to them by one of their fellow-citizens; the fruits of which I cannot but hope will be enjoyed and recognised by future generations. We are called upon by the public voice to erect a monument suited to the character of WASHINGTON, who has been emphatically styled, *the man of the age*, and whose virtues may, by the record we shall make of them, become the property of distant ages.

These virtues will doubtless be the theme of some able biographer, and it is wished that posterity may not search in vain for some striking evidence of our acknowledgment of them. It is indeed of infinite importance to civil society, that the memory of that great man should be perpetuated, by every means in our power. We may thus sow the seeds of virtue, honor, and patriotism, in our country. He will be held up a model, to which the finger of wisdom will constantly point, to which the attention of youth will be irresistibly drawn, and the mind of every man aspiring to pre-eminence among a free people will be riveted. The proposed mausoleum would be a structure well calculated to resist the ravages of time. As to the hand of man, at least of civilized man, we need not guard against it. The depository of the ashes of WASHINGTON will never be assailed

by it. It may indeed be attacked by the ruthless hand of some invading barbarian. But its only security against such an attack must be derived from the courage and fortitude of the people of the United States. And I trust they will never tamely yield up the land of their forefathers.

Mr. BIRD was against the bill, because it proposed the erection of a mausoleum, which would not be equal to the object for which it was raised without the expenditure of a vast sum of money; whereas a statue could be made, somewhat correspondent to the occasion, for a moderate sum. It was in vain for gentlemen to talk about a structure commensurate to the object. Such a thing was impossible. He moved the recommitment of the bill to a Committee of the whole House.

The question being put, the House divided—ayes 39, noes 39; and it passed in the negative by the casting vote of the Speaker.

Mr. SHEPARD said, I will do as much as any man to honor the memory of WASHINGTON. I have fought and bled with him several times. I have always supported and will continue to support him. But on the score of expense I think we are going too far. I will go so far as to have his remains placed decently within these walls. Further I will not go; for I do not think we have a right to throw away the public money.

Mr. MACON delivered his reasons against a mausoleum, and in favor of an equestrian statue: and among other remarks, said, the idea that a mausoleum would be equal to the character of WASHINGTON was preposterous. Few individuals in the world were capable of drawing his character. In a few words, he would say that no character that had ever lived was equal to him, and it was his firm belief, that the world would never see his equal.

Mr. BROWN thought General WASHINGTON the best man that had ever lived; and he was surprised at the ideas of gentlemen on the ground of expense. If the mausoleum were agreed to, it would not cost each person in the United States four cents; and if the equestrian statue were also made, (which he hoped would also be done, for the sake of general accommodation) it would not cost more than two cents. It seemed to him that some gentlemen were averse to doing anything, though they did not wish the people to think so.

Mr. ALSTON would not have risen, had he not been marked by the gentleman from Rhode Island as an object of inconsistency.

Mr. CHAMPLIN explained by saying he did not mean to censure the gentleman for his change of opinion, for which he doubtless had good reasons.

Mr. ALSTON.—Let the measures of Congress be reviewed, and it would appear, that the House itself and the gentleman from Rhode Island had been as inconsistent as himself. He would appeal to the gentleman whether it was more honorable to desert his duty and fly a vote, than to act as he had done?

Mr. HUGER said it was unnecessary at this time to take into view the old arguments that had been urged. The proposition of the gentleman from Tennessee, for an equestrian statue, was the only

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one he should notice. So impressed was he with the inadequacy of a common statue to express the gratitude of America, that he would rather have nothing done, than to have what was done in this backhanded way.

He was disposed to treat with respect the acts of the old Congress. But the act, to which the gentleman from Tennessee had alluded, and which he wished this House exclusively to carry into effect, was passed in reference to the military exploits of Gen. WASHINGTON, because, at the time it was passed, his life had been most characterized by them. Since that period circumstances had changed. If we are bound by the acts of the old Congress, are we not equally bound by those of the last session? If you adopt the ideas of the gentleman, do you not hold out the Commander-in-Chief of the American Army as deserving a splendid monument, and the father of the Constitution and other great civil acts as deserving nothing?

Without any concert whatever, a remarkable concurrence had taken place between West, Trumbull, and other respectable artists, who all gave an unequivocal preference to a mausoleum; which, in his opinion, would be far less expensive than a statue. The expense of the latter, as would appear from an estimate in the office of the Secretary of State, could not be less than forty thousand guineas, deliverable at Paris; and when the additional charges of transportation, insurance, and other incidental expenses, were considered, he was persuaded it could not be completed for less than two or three hundred thousand dollars.

Mr. J. C. SMITH considered the Government as pledged to do that which they had promised, and which the national feeling required.

Mr. RANDOLPH must consider the present as a tedious and useless debate. The gentleman had declared the Government to be pledged. To whom were they pledged, and for what? It was to the relics of the deceased; to have them placed within these walls. For this, there were the strongest reasons, as such a measure would be agreeable to the venerable lady to whom he had been united. If then they were so pledged, why violate this pledge, by referring the business to the Secretary of State, of the Treasury, of War, and of the Navy; though what connexion there was between the office of the Secretary of the Navy and the performance of this trust, he could not tell?

One consideration with him was insuperable. The departure from the original plan tended, unjustly, and most cruelly, (however pure the intention,) to violate the feelings of a lady, so much troubled already.

Mr. J. C. SMITH said it had been declared by some gentlemen that the reputation of WASHINGTON might be safely confided to the record of history. Was it the opinion of those gentlemen that the record was to be found in the charge of murder against that illustrious character? Was it to be found in the patriotic effusions of men who had pronounced all expressions of national gratitude a mockery of woe, and had declared that it was high time for those who were the sincere apos-

tles of liberty to be done with such foolery; or was it to be found in the denunciations of a printer, supported by a State that perpetually boasted its regard to Republicanism?

Mr. HARPER could not but regret that a gentleman, who possessed so lively a regret for the venerable lady alluded to, should have exhibited in this discussion so glaring a contrast between his professions and his actions, by introducing that lady into the debate, and indelicately expressing her wishes, in reference to the place where the relics of her deceased partner should be deposited. Was it conceivable that to her the place could be of any importance? Or was it possible that this House could be enslaved by the trifling circumstance of the *locus in quo*, or that the paltry consideration attending an action of trespass could be gravely introduced into such a debate. All that this venerable lady says amounts to this, that accustomed from the example of her deceased friend to obey the national wishes, she submitted to that disposition of his remains that Congress may make. Shall we, then, in violation of the plain meaning of her words, enter into whispers of hearsay respecting wishes, which, from his knowledge of her good sense, he was persuaded had never been uttered?

Mr. RANDOLPH rose to explain. He had neither said, nor intended to say, that he possessed any knowledge beside that which appeared on the journals; and from that knowledge he was justified in saying that Mrs. WASHINGTON's compliance, as expressed by her, was not with any public will that might be expressed, but with that will which had been already expressed. Whatever insinuations the gentleman from South Carolina may mean to convey, his feelings of respect for every woman were sacred; nor were they limited to that sex alone. He was not disposed on this occasion to take the advice of the gentleman, who judging me by his own heart, said Mr. R., may imagine me capable of disrespect to the sex.

Mr. HARPER wished the gentleman would avoid any further interruption, and reserve his remarks until he was done. He did not know, nor was he concerned to inquire into the motives of the gentleman from Virginia. Such inquiry would, of all others, be the least profitable or interesting, either to the House or to himself. Neither had he any idea of giving advice which that gentleman would follow. He well knew that it was the most hopeless of all things to give advice to one whose own sense of propriety did not tell him what was right. Those, who were incapable of receiving lessons from their own minds or feelings, were not likely to receive them from any other quarter.

The feelings ascribed to Mrs. WASHINGTON were unfounded. The lady was incapable of entering into trifling disputes about place or time, such as the House had this day witnessed.

The arguments, by which the superiority of a statue to a mausoleum was attempted to be established, were fallacious. The form and features of our illustrious friend would be preserved without the erection of any statue by us. Pictures by celebrated artists were everywhere multiplied and

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caught at with avidity; and the sculptor and the painter will be employed unceasingly to keep pace with the increasing demand. Likenesses may be found everywhere, and as perfect on the other side of the Atlantic as on this.

A mausoleum would last for ages, and would present the same imperishable appearance two thousand years hence, that it would now. Whereas a statue would only remain till some civil convulsion, or foreign invasion, or flagitious conqueror, or lawless mob, should dash it into atoms; or till some invading barbarian should transport it as a trophy of his guilt to a foreign shore.

I have beheld, said Mr. H., a monument erected to a man, once considered as the patron of America, defaced, mutilated, its head broken off, prostrated with the ground. A statue, erected by the Legislature of Virginia to perpetuate the virtues of a man to future ages, had been destroyed.

Besides, a statue was minute, trivial, and perishable. It was a monument erected to all that crowd of estimable but subordinate personages, that soar in a region, elevated indeed above common characters, but which was infinitely below that occupied by WASHINGTON.

The greatest honor which this country ever has received, the greatest honor which it ever could receive, was derived from numbering with its sons the immortal WASHINGTON.

Shall then a mistaken spirit of economy, and a still more mistaken jealousy arrest us? Honor him, it is true, we cannot. The world has charged itself with that task. Posterity, as long as the world shall endure, will celebrate his virtues and his talents; those virtues and talents of which every ingredient of their happiness will be a perpetual evidence. But though we cannot honor him we may dishonor ourselves; though we cannot increase the lustre of his fame, we may show our own meanness, cowardice, spite, and malice; and show an astonished world that we are deplorably unworthy of the high honor conferred by Nature in giving us a WASHINGTON.

I am, said Mr. H., awfully impressed by the subject. I sink under the sublimity that surrounds it. No words can reach it; mine are totally inadequate; to the feelings of the House then it must be submitted: they, after anticipating all that genius or eloquence can say, will still far surpass their boldest effusions.

Mr. RANDOLPH was very unfortunately situated, as he was compelled to rise, not in his own defence, but in defence of the calumniated reputation of that State which he revered, since from it he derived his birth.

I will not, said Mr. R., enter into an elucidation of the motives of the gentleman from South Carolina, which have produced so much asperity, and such a virulence of rancour against the State of Virginia, but will confine myself to the question on engrossing the bill.

The gentleman has talked to us about his disregard for the *locus in quo*. Mr. R. said he cared as little for the *quo modo*, as the gentleman did for the *locus in quo*.

He had further told us that a statue might be

overthrown by a licentious mob; and that this had actually been the case in the State of Virginia. But, why had it been so? Because that statue had been erected in the life-time of the person it celebrated; because it had been erected under the Colonial Government; and because, like every other fetter of tyranny, it was broken by the Revolutionary spirit that established our liberties.

But, says the gentleman, statues are raised for subordinate men, for this admiral or that general, who may deserve well of their country, but who do not merit the highest distinctions of national gratitude. If this measure of raising a mausoleum is to be only a cover for obtaining statues for temporary and secondary and trifling characters, it may have a very alarming influence upon us.

It is not easy, for a man of even less sensibility than myself, to hear in silence the State in which I was born, and one of whose Representatives I am, calumniated in the manner in which it had been that day, by the gentlemen from Connecticut and South Carolina. In defence of that State, actuated by a love to it, and not from any respect to its detractors; not to repel any imputation of meanness, of cowardice, of malice, which the gentleman from South Carolina has called ours, (meaning, I suppose, his own,) I will inform him, and the gentleman from Connecticut, that that State was the first to celebrate the fame of the Hero of America, by erecting a statue to him in the Capitol at Richmond.

The gentleman from Connecticut objects to a confidence in the record of the historian. Does the gentleman wish to suppress the history of the political events of 1776? Or does he believe that these events will be handed down in association with the bloody buoy, and Porcupine's works? Perhaps he has formed from his own mind a proper selection for our children, and is against the press handing down anything else?

Mr. H. said, that the gentleman from Virginia had misstated what he had said. He had cast no reflection on the State of Virginia; but had barely stated two instances of statues overthrown and destroyed, to illustrate their frailty.

During the preceding debate, Mr. CLAIBORNE stated that the committee to whom this subject had been committed, had obtained several estimates; among which was one in writing, by Dr. Thornton, which states with confidence that the expense of an equestrian statue would not exceed from eight thousand to fifteen thousand pounds currency.

After some remarks from Mr. SHEPARD and Mr. LYON, the yeas and nays were taken on engrossing the bill, and were—yeas 44, nays 40, as follows:

YEAS—George Baer, Bailey Bartlett, John Brown, Christopher G. Champlin, William Cooper, William Craik, Franklin Davenport, John Dennis, George Dent, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glen, Samuel Goode, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Archibald Henderson, William H. Hill, Benjamin Huger, James H. Imlay, John Wilkes Kittera, Henry Lee, Lewis R. Morris, Abraham Nott, Harrison G. Otis,

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Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, Nathan Read, John Rutledge, jr., John C. Smith, Samuel Tenney, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Lemuel Williams, and Henry Woods.

NAYS—Willis Alston, Theodorus Bailey, John Bird, Phanuel Bishop, Robert Brown, Gabriel Christie, Matthew Clay, William Charles Cole Claiborne, John Condit, John Davenport, Thomas T. Davis, John Dawson, Joseph Eggleston, Lucas Elmendorf, Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, George Jackson, Aaron Kitchell, Michael Leib, Matthew Lyon, James Linn, Nathaniel Macon, Peter Muhlenberg, John Randolph, William Shepard, John Smilie, John Smith, Richard Dobbs Spaight, Richard Stanford, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Littleton W. Tazewell, Philip Van Cortlandt, and Joseph B. Varnum.

The third reading of the bill was fixed for Thursday week; when the House adjourned to Tuesday the thirtieth.

TUESDAY, December 30.

Another member, to wit: **ROBERT WILLIAMS**, from North Carolina, appeared, and took his seat in the House.

A memorial and remonstrance of the Legislature of the State of Georgia was presented to the House and read, protesting against the establishment by the United States of the Government of the Mississippi Territory within the limits of the said State; and praying a repeal of the acts authorizing the establishment thereof; as being unconstitutional, injurious to, and subversive of, the rights of the State of Georgia.

Ordered, That the said memorial do lie on the table.

A memorial of Pleasant Henderson and others, inhabitants of the State of North Carolina, was presented to the House and read, stating their claims to certain lands ceded by the State of North Carolina to the United States, with a reservation of the claims of the petitioners; the possession of which lands the United States have since guaranteed by treaty to the Chickasaw and Cherokee Indians; and praying relief in the premises.

Ordered, That the said memorial do lie on the table.

Ordered, That a committee be appointed, to be denominated "The Committee of Privileges;" and that Mr. JOHN C. SMITH, Mr. COOPER, Mr. THATCHER, Mr. HENDERSON, and Mr. NOTT, be the said committee.

The **SPEAKER** laid before the House a letter from Joseph Wheaton, Sergeant-at-Arms to this House, stating that, in consequence of his having executed the order of the Speaker, in arresting a certain James Lane, for disorderly behaviour in the gallery of the House, on Monday, the twenty-second instant, he was apprehended and conducted before a magistrate of the city of Washington, detained for a certain length of time, and finally discharged, in consequence of the non-appearance of the said James Lane, to prosecute his com-

plaint.—Referred to the Committee of Privileges this day appointed.

Mr. **PLATT**, from the Committee of Revisal and Unfinished Business, to whom it was referred to examine and report what laws have expired, or are near expiring, and require to be revived or further continued, made a farther report, in part; which was read, and ordered to lie on the table.

The **SPEAKER** laid before the House a letter from the Secretary of War, enclosing a report on the claims of certain Canadian refugees, made in pursuance of the act, entitled "An act for the relief of the refugees from the British provinces of Canada and Nova Scotia;" which were read, and ordered to be referred to the committee appointed, on the twenty-eighth ultimo, to prepare and bring in a bill for regulating the grants of land appropriated for the refugees from the British provinces of Canada and Nova Scotia.

Mr. **GRISWOLD**, from the Committee of Ways and Means, instructed, on the seventeenth instant, to inquire into the expediency of repealing the act, entitled "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves within the United States," made a report; which was read, and ordered to lie on the table.

Mr. **GRISWOLD**, from the same committee, presented a bill to continue in force the acts laying duties on licenses for selling wines and foreign distilled spirits by retail; on property sold at auction, and on carriages for the conveyance of persons; which was read twice and committed.

WEDNESDAY, December 31.

Ordered, That the memorial of Pleasant Henderson and others, inhabitants of the State of North Carolina, presented yesterday, be referred to Mr. PINCKNEY, Mr. CHAUNCEY GOODRICH, Mr. HENDERSON, Mr. NICHOLAS, and Mr. THATCHER.

Mr. **DENT**, from the Committee of Elections, made a further report, in part; which he delivered in at the Clerk's table, where the same was read, and is as follows:

"The Committee of Elections further report, that, by the certificate of the Governor of the State of New Hampshire, under seal, and dated the twenty-second day of November, one thousand eight hundred, it appears that Samuel Tenney is duly appointed a member of the House of Representatives of the United States, until the fourth day of March, one thousand eight hundred and one. It is further made to appear by information from several members of this House, from the said State, that such appointment was made to supply the vacancy occasioned by the resignation of William Gordon. Whereupon, the committee are of opinion that Samuel Tenney is entitled to take a seat in this House in the place of William Gordon."

DUTIES ON LICENSES.

The House went into a Committee of the Whole on the bill for continuing in force "an act laying duties on licenses for selling wine, and foreign distilled spirituous liquors by retail, on property sold at auction, and on carriages."

Mr. **VARNUM** moved to limit the duration of

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the bill to two years from the 1st day of March, 1801.

The motion was supported by Messrs. VARNUM, RANDOLPH, and NICHOLAS, and opposed by Mr. GRISWOLD.

On the question being taken, there appeared 39 ayes and 39 noes. The Chairman declaring himself in the negative, it was lost.

Mr. BIRD disliked that part of the bill which gave to the judicatories of the several States the right of taking cognizance of suits for duties payable under it. He declared himself averse to this investment of Judicial power, on the ground of expediency; but said he should not, on this occasion, oppose the bill for that reason. But he deemed the Judicial power, as delegated by the bill, to be unconstitutional. The bill must be amended before it could obtain his vote. He, therefore, moved so to amend the first section, as to confine all Judicial power exercised under the bill to the Federal courts.

The Constitution expressly declares that "the Judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States," &c. If the Judicial power extended to all cases, surely it must extend to the present case. The Constitution further declared "that the Judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish." It was self-evident, that the State courts could not be embraced by the expression "one supreme court." And as to the expression "inferior courts," he would ask whether the State tribunals could come within its meaning? It was evident to him that they could not, as they were not appointed by Congress; as no cause of error lies from the State to the Federal courts, or writ of *mandamus*. It followed that they were not included in the true meaning of the term "inferior" courts; they were neither ordained nor appointed by Congress.

Further, the Constitution prescribed that the judges should receive fixed salaries, payable by the United States, and hold their offices during good behaviour. This direction of the Constitution precluded all other but Federal courts.

Besides these Constitutional injunctions, which, on his mind, were irresistible, on a view of the expediency of the delegated powers, it would appear that extensive and great inconvenience attended the exercise of it. Under the jurisprudence of the several States, such a variety of laws and mode of procedure existed as produced the greatest embarrassments. Besides, it was not unfair to suppose, in the succession of events, the occasional existence in particular States of a spirit of hostility to some measure of the Federal Government.

On the whole, Mr. B. said, that he considered Congress as equally incompetent to transfuse into the State Courts, the right of judging on cases that occurred under the Constitution and laws of the Federal Government, as they were to transfuse Executive or Legislative power, derived from that Constitution, into the hands of the Execu-

tive and Legislative organs of the State Governments.

Mr. DENNIS was so impressed with the importance of a full and fair discussion of the point submitted to the House by the gentleman from New York, that he recommended a suspension of any consideration of it, until the Judiciary bill came before them. Then the question might be met directly. He, therefore, moved that the Committee rise, report progress, and sit again; which was accordingly done, and leave to sit again granted.

THE TERRITORY OF COLUMBIA.

On motion of Mr. H. LEE, the House went into a Committee of the Whole on the bill in relation to the Territory of Columbia.

Mr. RANDOLPH moved to strike out the first section, which is in these words:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the laws of the State of Virginia, as they existed on the first Monday of December, in the year 1800, shall be and continue in force in that part of the District of Columbia which was ceded by the said State to the United States, and by them accepted for the permanent seat of Government; and that the laws of the State of Maryland, as they existed on the said first Monday in December, shall be and continue in force in that part of the said District which was ceded by that State to the United States, and by them accepted, as aforesaid.

Mr. H. LEE said, that he was far from considering this bill as an act of supererogation. The Constitution had prohibited the States of Virginia and Maryland from legislating for the Territory; and it now became a question, whether the existing laws of those States were in force, which question might come before the Judiciary. To obviate all doubts, this bill, in the shape of a declaratory one, was reported.

Mr. NICHOLAS said, this bill is not, in my opinion, merely an act of supererogation, but an act of immense mischief. I do not agree with my colleague in the construction he gives the Constitution. He is of opinion, that the powers given to Congress on this subject must be exercised by them. I think differently. These powers are like many others conferred, which may or may not be exercised. It had never been contended that we are obliged to carry into execution all the powers with which we are invested. It is true, that we have nearly exhausted the letter of our charter, in the extent to which we have gone; but this fact furnished no reason for going still further.

A construction contrary to that contended for had been given by Congress in the exercise of their power. The act of acceptance passed by Congress, confirming the cessions made by Virginia and Maryland, expressly declares, "that the operation of the laws of the State within such District shall not be affected by this acceptance until the term fixed for the removal of the Government thereto, and until Congress shall otherwise by law provide."

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Great force was attached to that part of the Constitution which gave Congress exclusive legislation over the Territory. But the same clause of the Constitution gave the same power over forts, magazines, arsenals, &c. Yet this power had never been assumed by Congress. The possession of the right had heretofore been considered as sufficient; the exercise of it was reserved until peculiar circumstances should occur, which rendered it necessary.

I believe the Committee are not prepared to sanction this bill. To sanction it would be to place the inhabitants of the Territory in a situation for which they would not be thankful. It would impose upon them all the laws of Virginia and Maryland, as they existed on the first Monday of December, without those improvements which experience may suggest.

If this bill passed, it would leave a considerable portion of the inhabitants of the Territory without any judicial authorities to which they could appeal. There were parts of Fairfax, Montgomery, and Prince George's counties, which would have no courts to which they could apply.

Another consequence that would result from the construction attempted to be given to the Constitution, was the deprivation of the inhabitants of all participation either in Federal or State legislation. As, by the construction, they would cease to be the subjects of State taxation, it could not be expected that the States would permit them, without being taxed, to be represented.

Could any man desire to place the citizens of the District in such a state? To deprive them of the common right of participating in the passage of laws which all the citizens enjoyed?

If the construction be sound, that we are bound to legislate, then all the judicial proceedings which had taken place since the first Monday in December, whatever affected either property or persons, were mere nullities. I do not, however, believe the construction to be sound. I believe it opposed both to the spirit of the Constitution, and to the construction hitherto given by Congress. But were the construction just, to adopt the proposed bill would be to act in a way inadequate to the importance of the subject, which, involving in it a system of government for a large portion of citizens, ought not to be acted upon with precipitation, but ought to be conducted by the collected wisdom of Congress, derived from mature and deliberate reflection.

Mr. H. LEE said, my colleague is wrong in supposing this bill a part of a permanent system. It is only intended to cure an evil which some persons have supposed to exist, from the doubtful jurisdiction of the States of Virginia and Maryland.

Mr. OTIS said, though I respect the talents of the committee who brought in the bill, yet I cannot discover that it contains a single new view or provision. Though I am myself at a loss to account for the necessity of the bill, the committee were certainly right, if they entertained doubts, to attract the attention of the House to them.

By the first act of Congress accepting the ces-

sion, the United States have legislated in the very way the gentleman from Virginia now proposes. As it appeared at that time impossible to form a code of laws, those of Maryland and Virginia were confirmed till Congress should legislate.

If it were true that Congress were bound to legislate themselves, an equal obligation existed at that time with that which existed at present. Their not having done so was a strong argument against the construction now contended for.

To pass such a law as that now offered, instead of removing, would be the very means of exciting doubt. The time may arrive when Congress must go into the subject in detail, and make those provisions that were necessary for a great city. But at present such a step was not called for: the Territory had gone on very well for ten years without the interposition of Congress, and I have no doubt it will continue for some time to come to do well without it.

Mr. BRID said, this question, in my opinion, is susceptible of a very clear and precise solution. Did the acts of cession by the States, and of acceptance by Congress, take away the jurisdiction of those States, and vest it in Congress? The acts of Maryland and Virginia make a complete cession of soil and jurisdiction to Congress. This cession has been accepted by Congress. What is the consequence of one sovereign transferring all jurisdiction to another sovereign? Does not the power that cedes give up all right whatever to that which accepts? The words of the Constitution are that Congress shall exercise exclusive legislation. If Congress exercise exclusive legislation, does it not follow that no other body can exercise any legislation whatever?

The gentleman from Virginia (Mr. NICHOLAS) does not deny the power altogether, but limits it, as a power that may or may not be exercised by Congress; and in illustration of his opinion, instances the power to naturalize and to pass bankrupt laws. But the cases are not analogous. These last are powers that Congress may or may not exercise. The Constitution does not apply to them the term exclusive; nor are they shut out by the actual words of that instrument, or by necessary inference.

Over some objects Congress have partial authority; but in this case their authority is absolute and exclusive of all other; from which irresistibly follows the absolute cessation of all power in the ceding body.

It was undoubtedly the intention of the framers of the Constitution, that, after this Territory became the actual seat of Government, no authority but that of Congress should be in force.

The act of cession by the States, after stating the terms of cession, contains a proviso, that the power of legislation thereby vested in Congress, shall not impair the force of the laws of Maryland and Virginia, till Congress shall otherwise by law provide. A proviso is to prevent something from being done that without it would be done. Congress declared the same thing when they accepted the cession with the same proviso. This proviso tends to supersede the cession. Having this effect it

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must fall, as conflicting with the act to which it is a proviso. It must be considered as absolutely void. A proviso is intended to prevent the operation of a particular thing, not to give an operation to it. It may prevent the enactment of a particular law, but it cannot re-enact that law.

A difference of opinion seemed to exist as to the period when the powers of the States were superseded. It was the opinion of some gentlemen that they ceased on the completion of the act of cession. The committee consider them as ceasing on the first Monday in December of the present year. It became the House solemnly to settle this point before they entered into the consideration of a complicated system of government. If the legislative powers of the States had ceased, it follows, as a necessary consequence, that the Judicial powers had also ceased.

For these reasons I think it will be best to declare that things shall remain in *status quo*. If the ordinary jurisdiction established be not competent, it may easily be made so.

Mr. RANDOLPH was not prepared to enter into a discussion of the important point before the Committee. He would only state the dilemma in which the inhabitants of the District of Columbia would be placed by the construction given to the Constitution by his colleague, who was of opinion that all Legislative and Judicial powers derived from Virginia and Maryland, ceased on the first Monday of December. If this construction were true, was it not equally true that the bill now proposed would be of the same validity, and of no more validity, than the act of acceptance passed by Congress.

From his being unprepared, what he offered was submitted more in the form of hints than of correct arguments. But it seemed to him that if the construction contended for should prevail, it would disfranchise the corporations of Georgetown and Alexandria, and all other corporations within the District. Would it not place the Territory in the situation of a conquered country? According to this construction, the Territory was in a state of anarchy, and murder, if committed, would be no crime.

Further, if the Constitutional provision is obligatory upon us to assume exclusive legislation, are we not bound to establish uniform laws throughout the entire District? and of course are we not prohibited from establishing one system in one place, and a different system in another?

One other objection merited the gentleman's notice. The laws of Virginia precluded every officer under its Government from holding any Federal office.

From the impression made on his mind by these considerations, Mr. R. said, he would be wanting to himself and to his country, if he agreed to the bill. He hoped, therefore, that the Committee would rise, and not precipitate a decision.

Mr. HARPER was in favor of the motion that the Committee should rise, for the purpose of recommitting the bill to a select committee. He would state his reasons: The object of the first section was to assume the jurisdiction. That was

his object. He wished the establishment of a Judiciary competent to the carrying into effect the laws now existing. He wished this object to be accomplished in a fair, open, direct way. At some future period Congress might find it necessary to enter on a system of legislation in detail, and to have established numerous police regulations. At this time, the present exigency would be provided for by confirming the laws of Virginia and Maryland, and by giving effect to them by the institution of a competent Judicial authority.

Mr. NICHOLAS said, that he should vote for the Committee rising, from a different motive from that which actuated the gentleman from South Carolina. He hoped the business would be suffered for the present to sleep.

The construction given to the Constitution by the gentleman from New York, did not render it merely expedient in Congress to assume jurisdiction, but rendered it an absolute duty. In reply to his remarks, the gentleman had alleged that the authority given by the Constitution in relation to this Territory, differed from the other powers vested in Congress, inasmuch as the former investment of power had connected it with the word *exclusive*; whereas the latter had not. The meaning which Mr. N. affixed to that word, was altogether different from the one now contended for. The Constitution does not say Congress shall possess exclusive power of legislation; but that they shall have power of exercising exclusive legislation.

The acts of cession and acceptance contained a construction directly opposed to that now made. They declare that the laws of Maryland and Virginia shall continue till Congress shall alter them. Their cessation is made to depend on an uncertain event, viz: whether Congress shall legislate or not. Not a title in the Constitution or in our practice, under the Constitution, infringed our liberty to act or not to act.

What would be the effect of this law on the inhabitants of the Territory? It would impose on them the laws of Maryland and Virginia, as they existed on a particular day, without any capability of improvement from the improved code of those States.

Mr. N. had heard of no inconveniences which had arisen from the non-assumption of power by Congress. The people in the Territory of Columbia had been a happy people for more than a hundred years under their State Governments; and, he had no doubt, would remain so without the interposition of Congress, who, at present, were unqualified to act.

After some further remarks by Messrs. HARPER and H. LEE, the question was taken on the Committee rising, and carried without a division.

The Committee rose; the Chairman requested leave to sit again, which was not granted.

Mr. HARPER then moved to recommit the bill to the same committee that introduced it. He said, the objection made by the gentleman from Virginia to the assumption of power by Congress goes to say that the Constitutional provision, the acts of cession of Maryland and Virginia, and the

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act of acceptance by Congress, shall be all a dead letter; and that the Territory shall continue, as heretofore, under its old jurisdiction. This was, to all intents and purposes, the amount of the gentleman's remarks. He asked, what necessity for the exercise of power by Congress? Had not the citizens lived happily for a hundred years under the State Governments? This Mr. H. did not dispute. It was probably true that they had lived as happily as other portion of citizens under the State Governments. But the provision of the Constitution on this subject had not been made with this view. It was made to bestow dignity and independence on the Government of the Union. It was to protect it from such outrages as had occurred when it was differently situated, when it was without competent Legislative, Executive, and Judicial power, to insure to itself respect. While the Government was under the guardianship of State laws, those laws might be inadequate to its protection, or there might exist a spirit hostile to the General Government, or at any rate indisposed to give it proper protection. This was one reason, among others, for the provisions of the Constitution, confirmed and carried into effect by the acts of Maryland and Virginia, and by the act of Congress.

The object of the gentleman was to defeat all these acts, and all these arrangements, in subversion of that provision which the Constitution had made, and of that necessity which it had foreseen.

The gentleman from Virginia requires more time. He thinks we are not prepared to legislate. But if his (Mr. H.'s) ideas were adopted, there would be no occasion for this. The Territory has laws; and Mr. H. believed these laws would answer very well for fifty years, without giving Congress much trouble to modify them.

The establishment of a Judiciary would be very easy, and would require little time. As to a police, it may be necessary hereafter. At present it was not necessary. With regard to a corporation, he was against it at present, and he did not think it would ever be necessary.

Mr. NICHOLAS did not consider the power imparted by the Constitution as imperative. He, therefore, could not fairly be charged with a desire to deviate from the designs of its framers. The power was like a coat of armor, intended to protect the Government in periods of danger, and not to be worn at all times for parade and show.

Remarks had been made to show that the dignity and independence of the Government required the assumption. All such arguments, when set against the happiness of the people, were inconclusive. Mr. N. had always been taught to consider the true dignity of the Government as indissolubly connected with the happiness of the people; and was unable to unlearn all that he had heretofore acquired to this effect.

Mr. CRAIK agreed with the member from South Carolina, as far as his remarks went, but he did not think they went far enough. He was himself friendly to the institution of a local government for local purposes, leaving all Federal powers to Congress. If the bill should be recommit-

ted, he would be prepared to offer a plan conformably to these ideas. He felt no alarm at the doubts suggested of the validity of the laws of Maryland and Virginia. He believed that they were still in force; and did not think there was any absolute necessity for Congress to act at all at present. Still, he thought that delay would only multiply the inconveniences already experienced in the formation of a plan of government. A plan might be framed, to protect the General Government as well as, in some degree, the inhabitants of the Territory, from any tyranny that some gentlemen supposed might be exercised by Congress.

He concluded, by expressing a hope that a completely organized system might be formed and adopted.

Mr. DENNIS coincided with his colleague in desiring an assumption of jurisdiction by Congress. But, before he committed himself by an opinion, he wished to see an entire plan submitted. As to the bill before the Committee, it was little more than an abstract proposition.

Mr. D. believed that the assumption by Congress would be agreeable to the inhabitants, if a good system were adopted.

Mr. C. GOODRICH advocated the recommitment of the bill, that a more complete system might be devised, and submitted to the House in a more direct way.

The question of recommitment was carried, and two members were added to the original committee.

The Committee of Revisal and Unfinished Business reported it as their opinion, that it would be proper to continue the Sedition law, which expires with the close of this session, for two years longer.

Ordered, To lie on the table.

THURSDAY, January 1, 1801.

The House of Representatives having received information of the death of Major General THOMAS HARTLEY, one of its members, who has represented the State of Pennsylvania, in that branch of the National Legislature, from the commencement of the Government until his death, do, therefore, unanimously, *Resolve*, That the members testify their respect for the memory of the said THOMAS HARTLEY, by wearing a crape on the left arm, for one month.

Resolved, That the SPEAKER address a letter to the Executive of Pennsylvania, to inform him of the death of THOMAS HARTLEY, late a member of this House, in order that measures may be taken to supply the vacancy occasioned thereby.

MAUSOLEUM TO WASHINGTON.

An engrossed bill concerning GEORGE WASHINGTON was read the third time; and, on the question that the same do pass,

Mr. DAWSON moved to recommit it. Lost—ayes 39, noes 44.

Mr. RANDOLPH moved to refer the bill to a select committee. Lost—ayes 32.

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Mr. SPAIGHT and Mr. DAVIS then assigned their reasons for voting against the bill.

The question was then taken on the passing of the bill, and it was resolved in the affirmative—yeas 45, nays 37, as follows:

YEAS—Bailey Bartlett, John Brown, Christopher G. Champlin, William Cooper, William Craik, John Davenport, Franklin Davenport, John Dennis, George Dent, Joseph Dickson, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glen, Samuel Goode, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Archibald Henderson, William H. Hill, Benjamin Huger, James H. Inlay, John Wilkes Kittera, Henry Lee, Silas Lee, Lewis R. Morris, Abraham Nott, Harrison G. Otis, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, Nathan Read, John Rutledge, jr., John C. Smith, James Sheafe, Samuel Tenney, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Lemuel Williams, and Henry Woods.

NAYS—Willis Alston, Theodorus Bailey, Phaniel Bishop, Robert Brown, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, Thos. T. Davis, John Dawson, Joseph Eggleston, Lucas Elmendorf, Edwin Gray, Andrew Gregg, John A. Hanna, David Holmes, George Jackson, Aaron Kitchell, Michael Leib, James Lynn, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, John Randolph, John Smilie, John Smith, Richard Dobbs Spaight, Richard Stanford, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

Resolved, That the title of the said bill be, "An act to erect a Mausoleum for GEORGE WASHINGTON;" and that the Clerk of this House do carry the same to the Senate, and desire their concurrence.

FRIDAY, January 2.

Another member to wit: JAMES A. BAYARD, from Delaware, appeared and took his seat in the House.

On motion of Mr. GRISWOLD the House went into a Committee of the Whole on the Judiciary bill; the House dividing—yeas 44, nays 33.

The bill was read through, when the Committee reported progress, and asked and obtained leave to sit again.

A petition of sundry citizens and inhabitants of the county of Wayne, in the Territory of the United States Northwest of the Ohio, was presented to the House and read, stating the uncertain tenure by which they hold the lands now occupied by them, and praying relief therein; and, also, that the aid and patronage of Congress may be extended to them in the establishment of schools for the education of their youth, and that a township of land belonging to the United States may be appropriated in the said county for the support of the Gospel, and for erecting the buildings necessary for the celebration of divine service.

Ordered, That the said petition be referred to Mr. PINCKNEY, Mr. McMILLAN, Mr. IMLAY, Mr. ELIZUR GOODRICH, and Mr. KITTERA.

Mr. HARPER presented two papers; one of

which was a defence by Governor Sargent of himself, against charges preferred against him by a member of the House of Representatives; being a letter to the Secretary of State, put by him into the hands of Mr. HARPER; and the other, the presentment of a grand jury in the Northwest Territory on charges made against Governor Sargent, &c.

The papers were read and referred to the committee of inquiry into the official conduct of Winthrop Sargent; as was a Message of the President, enclosing a copy of laws passed in that Territory between June 30, and December 31, 1799.

DISTRICT OF COLUMBIA.

Mr. HARPER moved the following resolutions, which were read, and referred to the Committee on the Territory of Columbia:

Resolved, That it is expedient for Congress to assume, forthwith, the jurisdiction of Columbia.

Resolved, That the laws of Virginia and Maryland now in force in the parts of the said district contained within the limits of those States respectively, ought to be continued in force therein, until Congress shall otherwise provide by law.

Resolved, That for the administration of justice within the said District, there ought to be established two Inferior, and one Superior Court; the Inferior Courts to sit at Alexandria, and the City of Washington, for such parts of the said District as lie on the different sides of the river Potomac respectively; to have a limited civil and criminal jurisdiction with competent powers; and to be composed of three Judges each; and the Supreme Court to be held at the City of Washington, to have full powers as a Court of Equity, original jurisdiction in all cases civil and criminal not within the jurisdiction of the Inferior Courts, and appellate jurisdiction from the said courts in all civil cases above the value of — dollars; and to be composed of a Chief Justice, who shall also be superintendent of police for the said District, with competent powers, and two associates.

Resolved That the salaries of the said Judges ought to be established by law, and to be paid by the United States.

Resolved That provision ought to be made for the appointment of a Marshal for the said District, and of clerks and other officers for the said courts, for the preservation of records, and for the due confinement and security of persons committed or imprisoned.

Resolved That for the better ordering of affairs in the said District, it ought to be divided into three townships, so that one township shall include Alexandria, one Georgetown, and one the City of Washington; and that a Corporation ought to be established within each of the said townships, to be composed of a suitable number of persons annually elected by the freeholders within the same; and to be vested with power to make provision within their respective townships, by by-laws respecting streets, highways, markets, and other matters of a similar nature, to be particularly described; the said by-laws to be subject to the revision of the Superior Court of the District, and to be annulled thereby, upon complaint by any person or persons aggrieved, notice to the proper officers of Corporation, and cause shown.

SEDITION LAW.

The House proceeded to consider the report of the Committee of Revisal and Unfinished Business, made the thirty-first ultimo, which lay on

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the table, and the same being again read, in the words following, to wit:

"The Committee of Revisal and Unfinished Business further report, in part:

"That, on examining the statutes of the United States, they find that the act, entitled 'An act in addition to the act, entitled 'An act for the punishment of certain crimes against the United States,' passed the fourteenth day of July, one thousand seven hundred and ninety-eight, will expire on the third day of March, one thousand eight hundred and one.

"And the said committee report their opinion, that the above-mentioned act ought to be continued; and, therefore, recommend the following resolution:

"Resolved, That the Committee of Revisal and Unfinished Business be authorized to report a bill for continuing the act, entitled 'An act in addition to the act, entitled 'An act for the punishment of certain crimes against the United States,' passed the fourteenth day of July, one thousand seven hundred and ninety-eight."

It was moved and seconded that the said report be committed to a Committee of the Whole House. And the question being taken thereupon, it was resolved in the affirmative—yeas 47, nays 33, as follows:

YEAS—Willis Alston, George Baer, Bailey Bartlett, James A. Bayard, John Bird, John Brown, Christopher G. Champlin, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, George Dent, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, William Barry Grove, Archibald Henderson, William H. Hill, James H. Inlay, John Wilkes Kittera, Silas Lee, Lewis R. Morris, Abraham Nott, Harrison G. Otis, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, Nathan Reed, John Rutledge, jun., John C. Smith, James Sheafe, Samuel Tenney, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Williams, Lemuel Williams, and Henry Woods.

NAYS—Theodorus Bailey, Robert Brown, Gabriel Christie, Matthew Clay, William Charles Cole Claiborne, John Condit, Thomas T. Davis, Joseph Eggleston, Lucas Elmendorf, Samuel Goode, Edwin Gray, Andrew Gregg, John A. Hanna, George Jackson, Aaron Kitchell, Michael Leib, James Lynn, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, John Randolph, John Smilie, John Smith, Richard Dobbs Spaight, Richard Stanford, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, and Joseph B. Varnum.

Ordered, That the said report be committed to a Committee of the whole House on Tuesday next.

Ordered, That Mr. HARPER and Mr. OTIS be excused from serving on the committee appointed, on the twenty-second ultimo, to inquire into the official conduct of Winthrop Sargent, Governor of the Mississippi Territory; and that Mr. CHAUNCEY GOODRICH and Mr. BAYARD be appointed in their stead.

MONDAY, January 5.

Mr. GRISWOLD, from the Committee of Ways and Means, presented a bill making appropri-

tions for the support of Government, for the year one thousand eight hundred and one; which was read twice and committed to a Committee of the Whole House on Monday next.

Ordered, That Mr. DAVIS, Mr. NOTT, and Mr. CLAIBORNE, be excused from serving on the committee appointed, on the twenty-second ultimo, to inquire into the official conduct of Winthrop Sargent, Governor of the Mississippi Territory; and that Mr. ROBERT WILLIAMS, Mr. TALIAFERRO, and Mr. PINCKNEY, be appointed in their stead.

Mr. DAVIS moved that the Committee of Ways and Means be directed to inquire into the expediency of appointing agents in Kentucky and the Northwest Territory to pay pensions becoming due.

JUDICIARY BILL.

The House resolved into a Committee of the Whole on the Judiciary bill.

The CHAIRMAN proceeded in reading the paragraphs until he came to the fifth section, which,

Mr. EGGLESTON moved so to amend, as to preserve the plan at present existing, which establishes one court for Virginia, instead of dividing the State into two districts, and having two courts, one to sit at Richmond, and the other at Fredericksburg, as proposed by the bill.

On this motion a lengthy debate ensued.

Messrs. EGGLESTON, NICHOLAS, RANDOLPH, JACKSON, and MACON supported, and Messrs. GRISWOLD, HARPER, BAYARD, H. LEE, and OTIS, opposed it.

Those who supported the motion contended that the proposed alteration was unwarranted by any change which had taken place in Virginia; that heretofore much business had been done in the Federal court from an accumulation of unsatisfied demands incurred previously to the formation of the Federal Constitution; that these demands, for the most part, were now settled; that the existing demands are few, and which one court was fully equal to attending to; that the fact was that justice had been administered under the present system with the greatest dispatch; and that at the last term the docket was so completely cleared, in a sitting of ten days, that the court, not satisfied with deciding on suits which had gone through the usual forms, had actually decided on several returnable to the ensuing term; that the additional court was not desired by the citizens of Virginia, whose convenience, so far from being furthered, would be injured by it; for that the plan of having one court held at Richmond, and another at Fredericksburg, which were not more than seventy miles apart, would place a large portion of the citizens at a greater distance from the seats of the courts, than they were at present from Richmond; which was, besides, the capital of the State, and the place to which the citizens very generally repaired for the transaction of their ordinary affairs;—that it behooved those gentlemen who recommended this extension of the Judiciary system, to show the peculiar necessity and advantages of it.

Those who opposed the motion observed, that it became the Government of the United States to

organize the Judiciary in such a way as to insure an obedience to its laws, and to insure the faithful collection of revenue; that this last object could only be attained by the institution of Federal courts, not so remote from each other, as to prevent the convenient attendance of prosecutors, parties, witnesses, and jurors at the seats of the courts; that the recovery of duties derived from this source could only be made before the Federal courts, and if the places at which infractions of the revenue laws took place were very remote, however ardent the patriotism of the citizens, they could not be expected to encounter the great expense and loss of time that would be required in attending a court three or four hundred miles distant; that the most solid objection to an extension of the courts was their expense; that in fact the extension would probably be an economical arrangement, as the facility of recovering dues to the public would be increased, and with it the productiveness of the revenue; and a considerable sum would be saved in the expenses, defrayed by the public, of a grand jury, which from its very nature must be drawn from all the parts of each State, by the contracted size of the district from which they were taken; and that the same remark would apply, in a smaller degree, to common jurors, witnesses, prosecutors, &c.; that, so far from the statement made by the gentleman being correct, it was understood that several suits in which the public was interested, had been protracted for several terms; that the little business alleged to have been brought before the Federal court of Virginia, was the most conclusive evidence of the inconveniences attending the present plan, whereby, owing to the remote situation of the greater part of the citizens, they were induced to prefer an appeal to the State, in preference to the Federal courts.

It was further declared to be very doubtful, on Constitutional ground, whether Congress could delegate judicial powers to the State courts; and if they could, it was a delicate question how far State Judges were amenable to the United States, for a faithful discharge of their duty, inasmuch as, if they violated the laws of the United States, they were not Constitutional subjects of impeachment by Congress; that, at any rate, the effect might be the inexecution of the laws; from which an imbecility in the Government would arise, the more fatal as it affected the vital principle of the administration of justice; that it was not doubted but that Virginia would be well satisfied with one court in preference to two, or with no court whatever in preference to one; that it would be wise in Congress to conform as nearly as they could, in consistence with economy, to the ideas adopted by the several States, as well as the established principles of common law, which brought justice home to the door of every man: that it would therefore be advisable, if the expense were not too great, to divide Virginia, not merely into two, but into four or eight districts, with a court in each; that it was a lame argument, that because we could not do all that was required, we should do nothing; that as to the idea thrown out, that the convenience of the citizens of Virginia

did not require an additional court it was entitled to no weight; as the additional court would not be instituted merely for the convenience of Virginia, but for rendering justice to foreigners and the citizens of other States, and to insure the dignity and independence of the Government.

It was further observed that if the division of Virginia, contemplated by the bill, was inconvenient, it might be altered; though it was believed that the objection arose from a want of geographical knowledge in the gentlemen who made it.

In reply to these remarks, it was said by a member, who represented the Western district of Virginia, that there had been but one suit carried before the Federal court from his part of the State for ten years, and that at present there was not a single one depending.

Other gentlemen observed that it behooved those who avowed that this additional court was not intended to answer the convenience of the citizens of Virginia to answer, that, notwithstanding the contrary declarations of some gentlemen, who on this occasion, had betrayed the same ignorance of the physical state of the country that on previous occasions they had manifested of its moral and political state, the new arrangement would increase, instead of diminishing the existing inconveniences, inasmuch as the citizens of the counties of Essex, Caroline, Louisa, and Orange, would be removed to a greater distance from Fredericksburg, the contemplated seat of their court, than they now were from Richmond.

It was further contended that the State courts were fully competent to discharge all the duties assigned them; and that in Virginia the Federal laws had been either invariably obeyed or enforced; that no spirit of hostility to the Federal Government had appeared, and that it would be time enough to guard against it when it should appear; that, from the remarks of some gentlemen, it really appeared, as if they wanted an additional Judge, and knew not where to locate him.

The question was then taken on Mr. EGGLERSON'S motion to strike out, and lost—yeas 39, nays 44.

A motion was then made that the Committee rise; which was lost—yeas 36, nays 39.

Mr H. LEE moved so to amend the section, as to produce a division of Virginia laterally, instead of longitudinally, and to make Staunton instead of Fredericksburg, the seat of justice.—Carried, yeas 45.

TUESDAY, January 6.

QUESTION OF PRIVILEGE.

The House took up the report of the Committee of Privileges on the letter of Joseph Wheaton, Sergeant-at-Arms, which is as follows:

The Committee of Privileges to whom was referred the letter from Joseph Wheaton, Sergeant-at-Arms, report:

That the representation made by the Sergeant-at-Arms contains a correct statement of facts; and that he, in the opinion of the committee, is to be commended for the promptitude and fidelity with which he exe-

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cuted the order of the Speaker to apprehend the person guilty of indecent and disorderly conduct in the gallery.

The committee have reason to believe, from the best information they can obtain, that the person who committed the disorder, (and who has since absconded,) was at the time intoxicated with liquor.

The magistrate, by whose warrant the Sergeant-at-Arms was arrested, and held in custody, for discharging his duty in the premises, has explained his conduct in a letter accompanying this report. The suggestion made to him, that any one member of this House was consulted with regard to the prosecution of the Sergeant-at-Arms, is presumed by the committee to be false; as it would imply in such member not only a disregard of all sense of personal propriety, but also an inexcusable contempt for the honor and dignity of the House.

That although the arrest and confinement of an officer of the House of Representatives for any act by him performed in its service, and in obedience to its orders, must be deemed a high breach of its privileges; yet as the magistrate, in the present case, seems rather to have been deceived by false representations, than influenced by improper views, the committee cannot consider his conduct as a subject of animadversion.

They are, therefore, of opinion that it is not expedient for the House to take any further order on the letter from Joseph Wheaton.

The following is the letter of the magistrate alluded to:

CITY OF WASHINGTON, Jan. 3, 1801.

SIR: In compliance with your request, I will endeavor to state what took place between James Lane and myself respecting the warrant I granted at the instance of the said Lane against Joseph Wheaton, which is in substance as follows:

On Monday the 22d ultimo, I was called on by a young man of genteel appearance, whose name he said was Lane, and informed (for the first time) that he had been arrested in the gallery of Congress by the Sergeant-at-Arms, and by him confined in one of the committee-rooms upwards of an hour, on suspicion of clapping a member of the House of Representatives while addressing the Speaker, which charge he at that time denied being guilty of. He also stated that Mr. Wheaton, after keeping him confined during the time above-mentioned discharged him, and that he was arrested a second time by the said Wheaton on the public square, some distance from the Capitol, who wrested from him, his horse without producing a written authority from the Speaker of Congress, or any other evidence to justify his conduct. I thought, under such circumstances, it behooved me as a justice of the peace for Prince George's county, to take cognizance of the last charge, although I embarked in the business with great diffidence and reluctance. I issued a warrant to have Mr. Wheaton apprehended, which was served by Mr. Spalding (the constable) on the Wednesday following, by whom Mr. Wheaton was brought before me. On hearing his defence, which was corroborated by others who were present, I made no hesitation in discharging him, as I was well satisfied that his conduct had been that of a vigilant officer, and I made no hesitation in declaring that, so far as his conduct has fallen under my own observation, it has been marked with the strictest probity. Mr. Lane informed me that he had consulted with one or two members of

Congress respecting his case, who thought he had been treated with improper severity, but he did not name any particular member. I have endeavored to state every circumstance that took place on this disagreeable subject, and hope my conduct may not be unfavorably construed, so as to lead to the smallest suspicion that I meant to offer an indignity to the representatives of this my native country, or any of its officers.

I remain with sentiments of due respect, your obedient servant,

RICHARD FORREST.

The following is the letter from the Sergeant-at-Arms:

To the Hon. Theodore Sedgwick, Esq., Speaker of the House of Representatives of the United States:

SIR: I conceive it to be my duty to report to you, for the information of the House of Representatives, the circumstances which have attended and the proceedings which have followed my obedience to your orders for arresting the person who had been guilty of contemptuous and disorderly behaviour in the gallery on Monday the 22d inst. Upon proceeding to the gallery I found that the disorderly person was one James Lane, whom I accordingly arrested, conducted to the Clerk's office, and treated with all possible civility, until the adjournment of the House, when he was released, and suffered to go where he pleased.

On the Wednesday morning I was apprehended upon a warrant issued by Richard Forrest, Esq., in the name of the State of Maryland, commanding Thomas Barton Morris or Richard Spalding to arrest the body of Joseph Wheaton, and I was accordingly conducted before the said Justice Forrest, and was detained a prisoner from 10 o'clock in the morning until 1 o'clock in the afternoon, and was at length discharged because the aforesaid Lane did not appear to prosecute his complaint.

I have the honor to be, faithfully, your obedient, humble servant.

JOSEPH WHEATON.

December 30, 1800.

Mr. NICHOLAS thought the report contained opinions that it would be improper in the House to sanction. It improperly censured the conduct of a magistrate, who did not appear to have violated his official duties, as he had waived the prosecution as soon as he was informed by the Sergeant of the real nature of the circumstances. More could not be required. To expect the magistracy to forbear calling to account the officers of a Legislative body, in all cases whatever, would involve a violation of every legal principle.

As Mr. N. understood the affair before the House, the Sergeant had been directed by the Speaker to see to the man who made the disturbance in the gallery. He knew not that this order gave any authority to confine the man. He had not himself been present at the time; but, from the circumstances he had heard stated, he did not believe that the idea of arrest and confinement had entered into the head of any man. But the conduct of the Sergeant did not stop here. He had been told, and he believed truly, that the Sergeant, after removing the man from the gallery, had dismissed him, and had returned to the House; when, on the suggestion of some members, he

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again pursued the man, who was in the street, and arrested him a second time, when there was no disturbance, and held him in confinement, without any authority whatever.

The opinions expressed by the committee would be of little importance, if they did not go to establish the incompetency of the magistracy of this country to inquire into the conduct of men who might be guilty of misconduct; of that magistracy on whom we must rely, in a great measure, for our protection.

Mr. DAVIS moved to refer the report to a Committee of the whole House.

Mr. SMILIE hoped the House, before it committed itself by any judgment, would inquire by what authority the Sergeant had acted in this most extraordinary transaction, that the citizens might in future be protected from outrages similar to that under discussion.

Mr. BAYARD said that the gentleman from Virginia (Mr. NICHOLAS) had entertained the House with an enumeration of doubts, which he hoped they would take no notice of. The facts before them came from a select committee, who were the only organ of a correct investigation of facts. If the facts were doubted the reference of them to a Committee of the Whole, with the view of ascertaining their truth, would be perfectly futile.

As to the sentiments of the gentleman on the report, he could not say he was surprised at them. They amounted simply to this, that there was something so sacred in the rights of a free citizen of a free country, that it was altogether immaterial how he acted, or in what manner he treated the constituted authorities of his country. Mr. B. felt as much as the gentleman for the rights of the citizen; but he also felt some degree of respect for the Government; as he believed that much, not merely of its dignity, but of the happiness of the people, depended upon an adherence to the settled principles of order. The gentleman had told the House he doubted its power in several respects. Did he doubt its power to take the most instantaneous steps to preserve its tranquillity and order? To advance such a doctrine would be to degrade the House below the grade of the most pitiful county court. There was no such court that did not possess the power of committing for a contempt.

Mr. NICHOLAS said that his remarks had been misstated. They were, that the magistrate was right in issuing his warrant; and that all that could be expected from him was an admission of the plea of the Sergeant, which had actually been done. But to say that a magistrate shall not call your officers to an account in any case, is saying more than had ever been said elsewhere. Cannot your officer commit abuses? Have not gentlemen heard of abuses committed elsewhere? Have they not heard, too, of their punishment? In such circumstances what other course can be pursued, than that whereby a complaint is first made, and the defence then heard?

Mr. N. did not think the committee had reported a true statement of facts. The Sergeant had himself declared that he had released the man,

and afterwards arrested him a second time. He was, therefore, authorized in supposing, not that the committee had suppressed facts, but that they had not made a full inquiry into them. It was, then, an acceptable service to give this information to the gentlemen, in the hope that they would be influenced by it.

He was surprised at the imputation thrown on a member, who was alluded to, as having advised the prosecution of the Sergeant. This conduct, so far from being disgraceful, he considered as highly honorable, coming as it did from a member enjoying an inviolability of character.

Mr. N. concluded with the expression of a hope that the business would be buried in oblivion, without controversy.

Mr. DANA said there were two features of the report that seemed to excite the sensibility of the gentleman from Virginia; one was the improper opinions expressed in it; the other, the imputation thrown on a member. He would have been truly surprised at the remarks he had heard on this occasion, had not very similar remarks often been expressed. Could any gentleman, pretending to judicial knowledge, doubt the power of the House? Could any man doubt that to arrest an officer of this House for discharging his duty was a violation of privilege?

As to the imputation thrown on a member, if any member had advised the prosecution, was not the imputation merited? For could any member of this House, impressed with a just sense of his station, so far degrade himself or the House as to request the interference of a magistrate? This, indeed, would be a miserable degradation of the House.

Mr. HARPER was prepared, if this were a fit time, to show that the Speaker clearly possessed the power he had exercised. It could be established by the best authorities. He was against a reference to the Committee of the Whole, which was the only question before the House. If gentlemen wished to try the abstract principle of privilege, they should move a recommitment to the select committee, and assign for reason the objectionable parts of the preamble.

The SPEAKER said that whatever words he may have used in giving his orders to the Sergeant, it was his intention to have arrested, and held in confinement, subject to the order of the House, the man who had committed disorderly behaviour in the gallery. He thought then, and he still thought, that his power extended to this length. If the Speaker did not possess this power a member might be assaulted without the bar, a debate might ensue, and before the House could come to any decision, the object to be answered might be defeated. It was, therefore, only justice to the Sergeant to declare that whatever he had done had been in obedience to his orders.

In the case of disorderly behaviour in the galleries, there were but two courses which could be pursued. One was to clear the galleries of all the persons in them. This would be to punish the innocent for the guilty. [The other was not heard distinctly.]

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Mr. DAVIS spoke against the report, and in favor of referring it to a Committee of the Whole.

Mr. KITTERA advocated the report.

Mr. SMILIE declared his decided disapprobation of the conduct of the Speaker, the Sergeant, and the Committee.

Mr. OTIS spoke at considerable length. He defended the conduct of the Speaker, the Sergeant, and the Committee. He observed that the authority of the Speaker to direct a momentary arrest was conceded. To arrest for an instant was as great a trespass as to arrest for a day. It could not admit of question that the Sergeant was bound to execute the orders of the Speaker; and these given in the presence of the whole House, without the House making any interference, were equal to the actual orders of the House.

It should be noticed by gentlemen that the species of outrage recently committed was more to be dreaded than any other kind of outrage. In other countries it had been fatal. In the French Republic it had produced much bloodshed, and other mournful transactions. Designing men attended for the express purpose of inspiring terror, thereby hoping to carry their favorite measures; and, in case they were called to account, they too generally found adherents, or lost themselves in a crowd. This description of outrages was, therefore, more to be feared than open assault upon the members.

Mr. MACON conceived that, in an affair of this kind, which presented the first instance in which a complaint had been made against an officer of the House for the arrest of a citizen, it became the House to act with deliberate caution. He was for a reference to the Committee of the Whole. He was not disposed to go at length into the arguments, urged by gentlemen in favor of the report. But he did not believe that the dignity of the House had anything to do with the business.

Mr. NICHOLAS had little doubt but that the sentiments contained in the preamble would hereafter be quoted as authorities. In this point of light he considered them as dangerous. They tended to extend, under the name of privilege, the powers of an Assembly, placed in circumstances peculiar to itself; and this extension could only be made at the expense of the magistracy of the country. The truth was that the civil authorities had powers, in many cases concurrent with those of the House; and it became not the House in such cases to countenance an exclusive exercise of them.

Mr. N. had no doubt of the Speaker's making a true statement, according to his own impressions. But he did doubt the actual correctness of his statement. His own opinion was that no authority had been given to the Sergeant to take the man into confinement.

[Mr. N. here stated, in corroboration of his opinion of the correctness of the facts reported by the Committee, the declaration made to him by several gentlemen as to the conduct of the Sergeant. His statement was substantially the same with that of Mr. ALSTON, which will be found below.]

The SPEAKER rose to explain what he had previously stated. He had said that he considered himself as possessed of the power to arrest and confine a person for disorderly behaviour during the present sitting, subject to the instructions of the House. He had not said that he had any power to confine an individual beyond that time.

The words in which he had conveyed his orders to the Sergeant, were he believed: "Take care of him." He would take this occasion to say that there was in the public prints of that day a gross misrepresentation of what occurred in the House.

[The editor of the *National Intelligencer* would deem it an act of pusillanimity to shrink from noticing this declaration of the Speaker. It is possible that it may not refer to his statement of the proceedings of the House; but the probability is that it does refer to that statement, inasmuch as it is the most particular which has been published, and the only one which states in detail the order of business of that day.

The day referred to is December 23d, 1800; and the debate that which took place on certain resolutions relative to the official conduct of Winthrop Sargent.

By a reference to that debate it will appear that, during the day there were sixty-nine successive risings of members, (including the Speaker;) that numerous points of order were started and decided upon by the Speaker; that embarrassment followed embarrassment; and that in several instances the Speaker, on the information of members, reversed his own decisions.

As a faithful reporter, a statement of these circumstances was published; as well as the words which fell from the Speaker on the disturbance in the gallery, which were: "See to that man."

Deeming it peculiarly important to be correct as to the words uttered by the Speaker, before they were published, the editor asked a gentleman, whose correctness cannot be questioned, and whose nearness to the Chair enabled him distinctly to hear, whether these were the words? he replied that they were.

This statement is extorted by the charge of gross misrepresentation. These are words which convey anything or everything. Without much latitude of construction they may be applied not only to the act, but the intention.

They tend, therefore, to impair that character for a sacred and undeviating adherence to truth, which the editor claims as of right. While he stands on the ground of truth, (and he never can stand on any other ground,) he knows that his statements will continue to be received as fair and correct representations of facts.

He will not deny his inability always to understand the meaning of the Speaker, even when he hears all his words. His consolation, however, is, that the misfortune is not peculiar to himself. The close of this day's debate will show that at least three members of the House labor under the same inconvenience.]

Mr. RUTLEDGE had been informed by the Sergeant that there had not been a second arrest.

The account given to him at the time of the outrage, and that given him to-day, precisely corresponded. The account was this: that when the Sergeant went into the gallery, the man who had committed the disorderly behaviour braved the vengeance of the House; in consequence of which he was taken down stairs by the Sergeant; he then broke from the custody of the Sergeant, and was finally conducted into the committee room, where he remained till the House rose, when the Speaker released him.

Nothing so gross as this had occurred under the Government, except once in Philadelphia, when the Speaker had actually confined all the citizens in the gallery by locking them in for a time. So that this power of confinement, which gentlemen declared to be novel, had been exercised, and that too in a much more extensive degree.

Mr. ALSTON observed that, had it not been for the observations which fell from the gentleman from South Carolina, who had just sat down, he should not have troubled the House with any remarks upon the present occasion; but that the statement of facts given by that gentleman to the House, so far as they related to the information which he had received from the Sergeant-at-Arms, was so entirely different from that which he himself had received from that officer, that he conceived himself bound to state to the House what he had himself heard that officer say. That upon the evening after the transaction took place, sitting by the fire-side in the presence of ten or fifteen gentlemen, who, Mr. A. said, he was very confident would bear him out in what he was about to relate, the Sergeant-at-Arms said that, in executing the orders of the Speaker, respecting the noise in the gallery, he had turned the disorderly person out of the gallery, and intended to have let him go about his business; but upon returning into the House, he had been advised by some of the members not to let him go; that it was extremely improper. Upon this he returned, and found the man some distance from the Capitol, upon his horse; that he again arrested him, and conducted him into the Clerk's office, or one of the committee rooms, and there detained him until the House adjourned.

Mr. A. then observed, that if the Sergeant-at-Arms had been capable of relating in language so diametrically opposite, the transaction which had taken place, as had been just given by the gentleman from South Carolina and himself, that, instead of his conduct being praiseworthy, as was stated by the report of the committee, in his opinion it merited reprehension, and that he should, therefore, give his vote against concurring with the report of the committee.

Mr. STANFORD observed, that what he knew of the subject did not come from the Sergeant; but he had good authority for saying, that the person who had committed disorder in the gallery, had been set at large after he was taken, and arrested under the advice and influence of certain members of the House, one, at least, if not more; that he himself could establish these facts; of course, that the report of the select committee was incor-

rect, and he hoped the business would be committed to a Committee of the Whole.

Mr. NOTT spoke in approbation of the report, and stated in detail the facts which had attended the business; but not having heard with distinctness more than half the words he uttered, and these in a broken way, we cannot state even the substance of his statement.

Mr. STANFORD begged leave more particularly to state that, on the day of the disorder, after the House had adjourned, he stepped into the Clerk's office. He there found the young man, the subject of the present inquiry, held in custody. He then expressed his surprise to the young gentlemen of the office, that the Sergeant had confined him, and exposed him to this humiliating mortification so long; that, as it was a thoughtless act on the part of the young man, to have turned him out of the gallery was sufficient punishment for the offence, and, indeed, the usual course. The answer was, that the Sergeant had done no more at first, but that, at the instance, it seemed, of one or more of the members, and not by the authority of the Speaker, he had afterwards gone, rearrested, and thus confined him.

Mr. S. hoped that the matter might go to the Committee of the Whole; the facts, he alleged, could then be substantiated, and the report of the select committee, so evidently erroneous, might be corrected.

Mr. EDMONDS thought that the conduct of the Speaker and Sergeant had been just what it ought to be. Nor did the different statements of facts, in the least, affect the propriety of the steps taken. In consequence of the order of the Speaker the Sergeant had arrested the individual, who was immediately in confinement. After this arrest the Sergeant had no power to liberate him without the permission of the Speaker or the House. Whether, therefore, he had remained personally in the custody of the Sergeant, or whether he had been disengaged from him, still he was substantially and legally under arrest and in confinement; and if he had withdrawn from the custody of the Sergeant, the latter had only done his duty in retaking him.

The question was then taken on referring the report to the Committee of the whole House, and lost—ayes 34, noes 48.

Mr. DAVIS, after making a statement of facts in correspondence with those of Mr. ALSTON, moved a reference of the report to a select committee. Lost—ayes 38, noes 47.

The question on agreeing to the resolution, with which the report concludes, recurring, the yeas and nays were agreed to be taken.

Mr. VARNUM. Is it in order to move to strike out the preamble?

Mr. SPEAKER. It is not in order. The preamble to a resolution may be struck out. But he believed no preamble, that barely assigned the reasons of a committee, had ever been struck out.

Mr. VARNUM was of opinion there had been such instances; and referred to a report of the Committee of Elections in 1795.

The SPEAKER declared that the preamble was

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not before the House; the only question was on agreeing to the concluding words.

On which the yeas and nays were taken.

When the Clerk called the name of Mr. SPAIGHT, he rose, and asked the Speaker whether the preamble would be inserted on the journals? declaring that if it were not, he would vote for the resolution.

The SPEAKER replied, in words that we considered as equivalent to a declaration that it would not be inserted. So impressed, Mr. SPAIGHT said, "aye."

On enumerating the yeas they were 58, and the nays 30, as follows:

YEAS—George Baer, Bailey Bartlett, James A. Bayard, John Bird, John Brown, Christopher G. Champlin, William C. C. Claiborne, William Cooper, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glen, Samuel Goode, Chauncey Goodrich, Elizur Goodrich, Andrew Gregg, Roger Griswold, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Archibald Henderson, William H. Hill, Benjamin Huger, James H. Imlay, Aaron Kitchell, John Wilkes Kittera, Henry Lee, Silas Lee, James Lynn, Lewis R. Morris, Abraham Nott, Harrison G. Otis, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, Nathan Reed, John Rutledge, jr., William Shepard, John C. Smith, Richard Dobbs Spaight, James Sheafe, Samuel Tenney, George Thatcher, John Chew Thomas, Richard Thomas, John Thompson, Peleg Wadsworth, Robert Williams, Lemuel Williams, and Henry Woods.

NAYS—Willis Alston, Theodorus Bailey, Phaniel Bishop, Robert Brown, Gabriel Christie, Matthew Clay, John Condit, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, Edwin Gray, David Holmes, George Jackson, Michael Leib, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, John Randolph, John Smilie, John Smith, Richard Stanford, Thomas Sumter, Benjamin Taliaferro, Abram Trigg, John Trigg, Philip Van Cortlandt, and Joseph B. Varnum.

The SPEAKER then made some remarks on placing the preamble on the journals.

Mr. KITCHELL said he had voted for the resolution from the declaration of the Speaker that the preamble was not to be inserted on the journals. If it were to be inserted he would change his vote.

The SPEAKER declared he had not said so.

Mr. SPAIGHT had been similarly impressed with Mr. KITCHELL. He, too, must request permission to change his vote.

Mr. GREGG declared he had voted under the same impression.

The members were not permitted to change their votes.

Mr. KITCHELL said that, in order to have an opportunity of fairly expressing his opinion, he moved a reconsideration of the question just taken.

On which question the yeas and nays were taken—yeas 45, nays 42, as follows:

YEAS—Willis Alston, Theodorus Bailey, Phaniel Bishop, Robert Brown, Christopher G. Champlin, Ga-

riel Christie, Matthew Clay, William C. C. Claiborne, John Condit, William Craik, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, Samuel Goode, Edwin Gray, Andrew Gregg, John A. Hanna, David Holmes, Benjamin Huger, George Jackson, Aaron Kitchell, Michael Leib, James Linn, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Abraham Nott, John Randolph, John Reed, John Smilie, John Smith, Richard Dobbs Spaight, Richard Stanford, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Peleg Wadsworth, and Robert Williams.

NAYS—George Baer, Bailey Bartlett, James A. Bayard, John Bird, John Brown, William Cooper, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Archibald Henderson, William H. Hill, James H. Imlay, John Wilkes Kittera, Henry Lee, Silas Lee, Lewis R. Morris, Harrison G. Otis, Thomas Pinckney, Jonas Platt, Nathan Reed, John Rutledge, junior, William Shepard, John C. Smith, James Sheafe, Samuel Tenney, George Thatcher, John Chew Thomas, Richard Thomas, Lemuel Williams, and Henry Woods.

On agreeing to the resolution the yeas and nays were again taken, under the declaration of the Speaker that he would direct the preamble to be placed on the journals—yeas 50, nays 38, as follows:

YEAS—George Baer, Bailey Bartlett, James A. Bayard, John Bird, John Brown, Christopher G. Champlin, William Cooper, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glenn, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Archibald Henderson, William H. Hill, Benjamin Huger, James H. Imlay, John Wilkes Kittera, Henry Lee, Silas Lee, James Lynn, Lewis R. Morris, Abraham Nott, Harrison G. Otis, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, Nathan Reed, John Rutledge, jun., William Shepard, John C. Smith, James Sheafe, Samuel Tenney, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Lemuel Williams, and Henry Woods.

NAYS—Willis Alston, Theodorus Bailey, Phaniel Bishop, Robert Brown, Gabriel Christie, Matthew Clay, William Charles Cole Claiborne, John Condit, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, Samuel Goode, Edwin Gray, Andrew Gregg, John A. Hanna, David Holmes, George Jackson, Aaron Kitchell, Michael Leib, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, John Randolph, John Smilie, John Smith, Richard Dobbs Spaight, Richard Stanford, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

Mr. GRISWOLD, from the Committee of Ways and Means, presented, a bill making appropriations for the Military Establishment of the United States, for the year one thousand eight hundred and one; which was read twice, and committed to a Committee of the Whole House on Monday next.

Ordered, That the committee to whom was referred, on the twenty-third ultimo, the petition of the messengers and office-keepers of the several Departments, be discharged from the consideration of the same; and that the said petition be referred to the Committee of Ways and Means.

WEDNESDAY, January 7.

Ordered, That the memorial and remonstrance of the Legislature of the State of Georgia, presented the 30th ultimo, and which lay on the table, be referred to Mr. DANA, Mr. TALIAFERRO, Mr. TENNEY, Mr. NOTT, and Mr. EGGLESTON.

JUDICIARY BILL.

The House again resolved itself into a Committee of the Whole on the Judiciary bill.

A considerable number of amendments were offered by Mr. HARPER, and approved.

Mr. DENNIS moved an addition to one of the sections, in the form of a proviso, declaring that nothing contained in the act should be so construed as to repeal so much of an act for securing duties on stills, &c., as vests in the courts of the several States a jurisdiction in certain cases therein mentioned.

He made this motion, not with reference to his own decision, but to try the sense of the Committee on the constitutionality of the power thus delegated; which, on a former day had been contested by a gentleman from New York, (Mr. BIRD.)

He had himself no doubt of the constitutionality of the power. Under our present system of Government, as well as under the Confederation, it had been exercised in analogous cases. The old Congress had expressly vested in the State courts the jurisdiction over Admiralty cases.

The Constitution has empowered Congress to establish judicatories, which might be made the sole organs of decision in certain specified cases; but it had not prescribed that they should absolutely be the exclusive organs. He recollected that in the Convention of Virginia that ratified the Federal Constitution, the advocates of it urged, as an argument for its adoption, that though Congress had the right of establishing independent judicatories, it was not probable that they would extensively exercise the right; but that they would devolve Judicial powers on the State tribunals.

As to the expediency of delegating Judicial powers to the State courts, it presented a more difficult inquiry. It was certainly a kind of clumsy affair. Under all other Governments the Judicial authority was at least coextensive with the Legislative; and in many Governments it went beyond it in a decision of cases under the law of nations.

Besides, Mr. D. discerned no way of compelling State Judges to perform their duty; and there appeared to be peculiar hardships in obliging courts and juries, supported by particular counties, to perform Federal duties.

Mr. HARPER had as little doubt of the Constitutionality as he had of the expediency of this

delegation of power. At present we are not under the necessity of establishing a Judicial system as extensive as the powers of Congress. If we were constitutionally obliged to do this, we should be compelled to cover the whole ground, and to institute a great number of new courts. It is true that we cannot enforce on the State courts, as a matter of duty, a performance of the acts we confide to them; but we give them the power, and until they refuse to exercise it, we have no cause to complain. He did not believe this proviso necessary. But as some gentlemen thought it was necessary, he would vote for it.

Mr. BIRD declared himself still of opinion, that the delegation of Judicial power to the State courts was unconstitutional. This is denied by the gentleman from Maryland. The argument he makes use of stands thus: He denies the unconstitutionality of the transfer, because we have practised it; therefore we have the power. Is this correct reasoning? Does the practice of a particular thing demonstrate it to be right?

The extreme difficulty of stretching out Judicial power in federal tribunals, which was alleged, was not a question of right, but of expediency. If it were a question of right, then must the question of right, as superior, supersede the minor question of expediency.

Some gentlemen seemed to think that, as soon as Congress pass a particular law, there exists a right and a duty in the State courts to execute it. But our own practice destroys this idea; for all our laws on the subject actually give power to the State courts; the expression is, "they may have jurisdiction in certain cases."

It had been asked, whether the laws of the United States did not bind the State Judges? He answered that they bound them as citizens but not as Judges. Even the gentleman from South Carolina admits that there is no obligation imposed upon them to act. This furnished a strong argument of the inconsistency of gentlemen, as the Judges were neither bound to execute our laws nor punishable for omitting to execute them. Further, the institution of a Judiciary coextensive with the other branches of the Government, was essential to the due administration of all just plans of civil policy. On the Judiciary depended the fair administration of justice. It was an organ of essential use and necessity. It should be attached to the system of which it formed a part, independently of all other systems. As well might the organ of one human body expect to derive support from the organ of another disconnected body, as the Federal Judiciary expect to gain support from State tribunals. So thought the framers of the Constitution; and a contemporaneous commentator on it has declared that a Judiciary coextensive with the Legislature is so natural as not to require argument to support it.

Mr. B. then went over the same ground with that taken by him in a former debate.

He concluded by declaring that, until the point was better cleared of Constitutional objections, all arguments of in expediency were perfectly futile.

Mr. NOTT said, the simple question was, wheth-

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er the Congress of the United States had or had not the Constitutional right of transferring to the State judicatories the power of trying causes arising under the Constitution or laws of the United States. In discussing this question he should not consider the consequences resulting from the decision, for although the consequences might be as his colleague (Mr. HARPER) had represented, that the Judiciary of the United States must be made coextensive with the State Judicatories, if this power was not admitted, yet if so the Constitution was written, so it must be understood. The Constitution could not be bent as convenience might require. The decision, therefore, must be made by the instrument itself.

The Constitution provided that the Judicial power of the United States should be vested in one Supreme Court and such inferior courts as the Congress might from time to time ordain and establish; and also that they should hold their offices during good behaviour, &c.

Mr. N. said, the clause in the Constitution requiring inferior courts, was equally imperative with that requiring a Supreme Court, with this difference only, that the Supreme Court was limited to one, but the details of the inferior courts were left to Congress. The expression "inferior courts" was a technical expression, as well understood by every lawyer as any in our law books. It meant a court possessed of subordinate powers within the same Judiciary system, and necessarily implied a superior court, capable of controlling an undue exercise of those powers; that the State Legislatures might with as much propriety be called inferior to the Federal Legislature, or the Executive of any State be called a subordinate officer of the President of the United States, as the State courts could be considered inferior courts of the United States.

The words in the Constitution were, "such inferior courts as Congress may ordain and establish;" and it was not sufficient to say that by giving the power to try causes arising under the Constitution, &c., you, *quo ad hoc*, made them courts of the United States; for there was an essential difference between ordaining and establishing courts and transferring power to courts already ordained and established. The obvious meaning of the Constitution, was that the Judicial power of the United States should be confided to courts established and organized by their own Government. Besides, Mr. N. observed, it was required that the Judges should hold their offices during good behaviour; but this was not the case in the several States; in some, he said, they held their commissions for a limited time; in others during the pleasure of the Legislature, and in others they could not hold them after a certain period of life.

There was another objection, he said, to this mode of appointing officers of the United States. The Constitution has provided that the President should appoint all the officers of the United States not otherwise appointed by the Constitution, except Congress should by law provide otherwise, as mentioned in the same clause of the Constitu-

tion. The Judges were not, however, of that description of officers contemplated by the Constitution, the appointment of whom Congress might vest in some other department, and if they were, that power had never yet been exercised by Congress. This, in effect, would be to divest the President of the power given him by the Constitution of appointing all officers, and to exercise it ourselves.

The doctrine he contended for would be further obvious by a reference to the second section of the third article of the Constitution, expressing the cases to which the Judicial power of the United States should extend:

"The Judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting Ambassadors, other public Ministers, and Consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States, between a State and citizen of another State, between citizens of different States, between citizens of the same State, claiming lands under grants of different States, and between a State and a citizen thereof, and foreign States, citizens, or subjects. In all cases affecting Ambassadors, other public Ministers, and Consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make."

He said there was a marked difference between the words of the Constitution relating to the catalogue of cases enumerated in the first part of that section, and those in the latter part of the same. The word "all" was prefixed to each of the cases first mentioned, down to the words "admiralty and maritime jurisdiction" inclusive, but was omitted in all the subsequent cases. He could see no reason why that word was added in the former part of the section, and omitted in the latter, except it meant that there was no case of the former description to which the Judicial power of the United States should not extend; in fact that the courts of the United States should have exclusive jurisdiction of all those cases, and in the latter their jurisdiction should be concurrent with the State courts.

It was further to be observed, he said, that the first description of cases here enumerated, were such as had received their birth from the Constitution and laws of the United States, and could not have existed previous to the establishment of the Government, or be such as immediately involved the rights and interests of the General Government; but that the latter were such as the individual States might have jurisdiction of, previous to that period. He presumed the State courts were not vested with more power under the present Constitution than they were before, unless given them by the Constitution; nor are they divested of any, unless by the same instrument, or by Congress, in pursuance of the power

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therein given to them. And he had seen no part of the Constitution that delegated this power to the State courts, or that authorized Congress to do it. It appeared to him that the meaning of the Constitution was to give to the courts of the United States exclusive jurisdiction over cases arising under the Constitution or laws of the United States, and also over all cases immediately affecting the general interests, and to reserve to the individual States the exclusive jurisdiction over their own local concerns; and that in cases involving their own interest and the rights of others, they might have concurrent jurisdiction. It was acknowledged by the gentleman from Delaware (Mr. BAYARD) that Congress had no power to compel the State courts to perform that duty, but that the Judges of the several States were bound to obey all the acts of Congress. Other gentlemen had observed, that this doctrine would go to deny that the stamp act, or any similar act, was binding on the State Judiciaries. On this Mr. N. observed, that the State courts were bound to observe all the Constitutional laws of Congress. When, therefore, Congress passed a law that no instrument of writing for the payment of money should be received in any State court as evidence of such debt, unless the same was upon stamped paper, the Judges were bound to obey it; but if they should pass a law giving power to any county court within the United States, to try persons guilty of treason against the United States, that law would not be obligatory upon them; nevertheless, it would be an act of Congress. Mr. N. said, the distinction was between cases arising under the Constitution and laws of the United States, and those that did not. His idea might be further illustrated by the act above mentioned (the stamp act.) If a person should give a note of hand for a hundred dollars on unstamped paper, with a view of evading that act, he was liable to a penalty; that would of course be a case arising under a law of the United States, and would be exclusively cognizable in the courts of the United States. But an action brought on a note of hand written on stamped paper, is not a case arising under the law of the United States, but arises from the contract itself; and, although no note had been given, the contract would, nevertheless, have existed. The stamp act does not require a contract to be in writing; but if people will have their contracts tested by written evidence, it requires that paper should be stamped.

Mr. N. said, wherever a duty was enjoined by law, the person who was guilty of the non-performance of that duty incurred the penalty annexed, and that penalty could be recovered no other way but by indictment, unless otherwise expressly provided by the law itself. And how would gentlemen frame an indictment in a State court, to embrace a case that had occurred under a law of the United States? It was essential in every indictment, to lay the offence to have been committed against the law of the State, and to conclude against the peace and dignity of the same. But, surely, gentlemen would not contend that an offence against a law of the United States

was an offence against the law of an individual State, or against its peace and dignity. The gentleman from Delaware (Mr. BAYARD) had observed that penalties incurred under the revenue laws were not considered as crimes, but were recoverable in actions of debt. But, said Mr. N., merely changing the action or the mode of recovering the penalty cannot alter the nature of the offence, nor the tribunal before whom it is to be tried. It was still a case arising under a law of the United States, and although a debt, it was one in which the defendant not even in contemplation of law had any agency. And to contend that because a penalty is by an act of Congress recoverable by an action of debt, therefore they have a right to transfer these cases to the State courts for adjudication, is to say that Congress may first give themselves the power to delegate it, and then exercise the power that is acquired.

But, said Mr. N., if it is true that Congress have a right to impose this duty on the Judges of the State courts, they must have the right to compel a performance of it. It was incompatible with the idea of sovereignty, to pass laws and not to have the power and the means of carrying them into execution.

Upon the whole, he had seen no part of the Constitution that authorized Congress to delegate such power to the State courts, or that authorized the State courts to execute it, and he should therefore vote against the proposed amendment.

Mr. BAYARD considered the question of the delegation of power altogether misapplied. The proviso moved by the gentleman from Maryland related to the jurisdiction of the State courts, not over offences, but over civil suits, which were brought by the United States for debts arising out of contracts with the individuals indebted to the Government. Now, it would puzzle him to say why the State courts should not decide cases in which the United States were a party, as well as in any other description of cases, when it was known that their jurisdiction extended over all actions for debt.

Mr. NICHOLAS desired to know whether there did not exist other laws than the one embraced by the proviso, to which it would be proper to extend its provisions? for which purpose he moved that the Committee rise. Motion lost—ayes 34, noes 37.

Mr. BIRD, wishing an amendment to the bill that would fairly and fully meet the question of constitutionality, recommended to the gentleman from Maryland to withdraw his proviso; in which case he would, at a proper period, present an amendment to that effect.

Mr. DENNIS withdrew his motion.

The CHAIRMAN then read the 13th section, one clause of which is as follows:

"The circuit courts shall have cognizance of all actions, or suits, matters or things, cognizable by the Judicial authority of the United States, under and by virtue of the Constitution thereof, where the matter in dispute shall amount to — hundred dollars, and where original jurisdiction is not given by the Constitution of the United States to the Supreme Court

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thereof, or exclusive jurisdiction by this act to the courts of Admiralty hereby established."

Mr. NICHOLAS moved to fill the blank with 500, so as to confine the jurisdiction to debts above \$500. Among other reasons assigned by him, he stated that the estate of Lord Fairfax, with the quit rents due thereon, had been confiscated during the Revolution by the State of Virginia; notwithstanding the confiscation, the heirs of Lord Fairfax had sold all their rights, (which the assignees contended remained unimpaired.) It might be their wish to prosecute in a Federal court, expecting to gain advantages in it which could not be had from the courts of Virginia. His object was to defeat the purpose by limiting the jurisdiction of the circuit courts to sums beyond the amount of quit rents, alleged to be due by any individual.

[It is understood that the present assignees of the claims of Lord Fairfax, are General Marshall, General Lee, and a third individual, and that they maintain their claims under the British Treaty.]

The motion was opposed by Messrs. HARPER and BAYARD.

On the question being taken, it was lost by the casting vote of the Chairman—ayes 37, noes 37. The blank was then filled with \$400—ayes 41.

The Committee then rose, reported progress, and had leave to sit again.

THURSDAY, January 8.

JUDICIARY BILL.

In Committee of the Whole on the Judiciary bill—

Mr. NICHOLAS moved to add to the 17th section the following clause of the act, passed September 24, 1789, which is omitted in the bill now before the Committee, viz:

"Nor shall any district or circuit court have cognizance of any suit to recover the contents of any promissory note or other chose in action in favor of an assignee, unless a suit might have been prosecuted in such court to recover the said contents if no assignment had been made, except in case of foreign bills of exchange.

Mr. N. stated his object to be to leave the jurisdiction of the Federal courts, as far as respected debts created by assignment, in the situation in which it now stood.

On this motion a debate of considerable length took place. The supporters of the motion were Messrs. NICHOLAS, RANDOLPH, and ALSTON; the opponents, Messrs. GRISWOLD, HARPER, and BAYARD.

Those who supported the motion contended that by giving jurisdiction to the Federal courts over assigned debts, a great mass of suits would be transferred from the State to the Federal tribunals; that this would be done by a collusive assignment; that it would thereby be in the power of a creditor, by nominally assigning his claim to a citizen of another State or to a foreigner, to bring his debtor into any Federal court he pleased, and occasion an increase of trouble and ex-

pense; that if any benefit did attach to the creditor by the right of instituting process in a Federal court, which was, however, not granted, that very benefit would violate the established principle of law that the assignee of a debt ought not to be placed in a better situation than the assignor; that when a citizen made a contract with a foreigner, he knew the consequences, but when he made a contract with a citizen, he entertained no idea of amenability to the Federal courts, and had no idea of being dragged to a distance in case of a controversy with his creditor; that in the Southern States, and particularly in Virginia, this power would be highly injurious; for that in Virginia all bonds were assignable, and a great mass of the debts contracted were in bonds and promissory notes; that if the power were bestowed, it would place the debtor at the mercy of the creditor; inasmuch as the latter would choose his court, and the former would in many cases be drawn two hundred miles from his home, where the debt had probably been contracted, where only were to be found his witnesses, and where a jury could be formed acquainted with his general character; that the power would operate severely to the prejudice of the citizens of North Carolina, as in that State there circulated a paper currency which was 25 per cent. below par, and which was a lawful tender in the State courts; whereas judgments were given in the Federal courts for specie only; the effect, therefore, would be that the creditor would commence his suit in the Federal courts, and by that mean obtain 25 per cent. more than was really due to him, as the contracts made in that State were predicated on the depreciated state of the paper currency.

Those who opposed the motion demanded to know whether a real *bona fide* debt could not be created by endorsement; whether it was not one of the most common operations among merchants; and whether the person who thus received an endorsement was not as completely and substantially the creditor as the original holder of the obligation? The effect of the amendment would be to shut out from the Federal Courts all persons of this description, whose claims would be as much affected by local passions and prejudices, as though they had not assigned. It was contended that this was one of the precise cases for which the Constitution had provided; and that the attempt to defeat this essential provision was another evidence of that invariable and unabating disposition to defeat the most important provisions of the Constitution, to destroy its energy, and to withdraw from it the respect of the citizens, which on every occasion was manifested by some gentlemen in that House.

The reasons offered in defence of the amendment were declared to be fallacious. There would exist no irrational, unfounded predilection of the creditor to the Federal tribunals; in most cases the creditor would prefer the State courts; in all cases, except those in which he had a strong dread that the undue influence of sinister feelings would bias them. If gentlemen simply desired to repress suits for demands not *bona fide*

assigned, an express provision could be made to this effect, to which the House would generally agree; for that provision, while it gratified the desires of several gentlemen, would not impair one of the vital principles of the Constitution, established on the conviction that an alien did not in the State courts stand on an equal footing with a citizen. It was contended that the observations derived from the situation of the State of North Carolina was not correct; as it was not believed that the Federal courts could alter a contract from its original form; and that, of course, in those cases where contracts had been made in paper money, judgment would be given, not for money, but in the nature of provisions, or some similar way, as no power could exist to deteriorate the contract.

It was not true that the great mass of debts incurred were in bonds or promissory notes; the great mass of debts were in the shape of book debts, which were not transferable.

It was further observed that if a disposition to evade the spirit of the law existed, it would be extremely easy in the creditor, when making his bargain, to obtain a note payable to a person in another State, or to an alien; and in this way his object of getting access to the Federal courts would be completely effected.

It was further contended that this amendment violated the Constitution. By it a citizen of one State had a declared right of suing the citizen of another in the Federal courts. As to the idea of additional expense in the Federal courts, if it had any weight, it would as forcibly apply to the creditor as the debtor.

In reply it was contended, that facts were stubborn things, and that they established, notwithstanding the ingenious theories of gentlemen, that judgments in North Carolina were actually given in the Federal courts in specie, while in the State courts they were given in paper money; and that as to the idea of discriminating between *bona fide* and *mala fide* assignments, it would produce one of the most intricate and embarrassing questions that could come before the courts; that in most cases all the knowledge to be obtained must proceed from the party interested in suppressing it; and that in consequence an extensive scene of perjury would be opened by appealing to his oath.

To this remark the opponents of the motion rejoined, that the operation would be a very simple one, consisting only in a resort to the equity side of the court to obtain, an oath of the assignee, a true statement of facts; and this resort had actually been had in Pennsylvania.

The question was then put on agreeing to Mr. NICHOLAS's motion, and carried—ayes 42, noes 27.

Mr. HARPER moved to strike out sections 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, and 33, which established a number of distinct courts with Admiralty jurisdiction.

On reflection, Mr. H. said it had been thought advisable at present not to constitute these new courts, but to establish two or three additional district courts, in the most maritime positions,

with Admiralty powers; for which purpose Mr. H. would prepare an amendment.—Motion carried without a division.

The Committee here rose, and had leave to sit again.

FRIDAY, January 9.

THE JUDICIARY BILL.

The House went into Committee of the Whole on the Judiciary bill.

The forty-eighth section was read as follows:

"SEC. 48. *And be it further enacted*, That each of the Circuit Judges of the United States to be appointed by virtue of this act, shall be allowed as a compensation for his services an annual salary of two thousand dollars, to be paid quarter-yearly at the Treasury of the United States; and that the salaries of the District Judges of Maine, New Hampshire, Rhode Island, Connecticut, Vermont, New Jersey, Delaware, Georgia, Kentucky, and Tennessee, shall be, and they hereby are, augmented to the like sum of two thousand dollars annually, to be paid in like manner."

Mr. GREGG moved to strike out \$2,000 and to insert \$1,800.

Mr. CLAIBORNE declared himself in favor of the motion. He considered \$2,000 as too high a compensation. In the State which he represented (Tennessee) it would be immoderate. The bill established three Circuit Courts for Kentucky and Tennessee, the Judges of which would receive \$6,000, which was a larger sum than the total amount of the expenses of the Government of Tennessee. The Judges of the Supreme Court of Tennessee receive but \$500 each, and the present Federal Judge received only \$800. The duties which the Federal Judges would have to discharge would not equal those of the State Judges. Such an exorbitant salary would be distressing to the State of Tennessee. It would either lessen the respect of the citizens for their own Judges, or rouse their pride to afford them salaries equal to those of the Federal Judges, even to their own oppression. As, therefore, such an expenditure would exhibit an instance of shameful profusion of public money, and would deeply wound the interests of his State, he would give his decided vote against it.

Mr. ORRIS, persuaded that if the Judiciary were not filled with men of the first talents and integrity, the system we are now devising would be injurious instead of being beneficial, was opposed to the motion. Talents of this order were not to be obtained for a small compensation. The sum proposed in the bill, as far as his knowledge extended, was not greater than that now allowed in the Superior State Courts. In his part of the country a lesser compensation to men qualified to decide those great and intricate questions, which often come before them, would be deemed a shameful parsimony. As to the idea of discriminating the compensation of different Judges, he thought the benefits to be derived from it were trivial compared with the evils it would create.

Grant that the effect of this bill will be the affording a higher compensation to the Federal

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Judges than is at present made to those of the States. The effect, he thought, would be a good one. It would operate as a powerful stimulus to the State Judges ably and faithfully to discharge their duty, that they might be qualified for, and likely to receive, Federal appointments.

So convinced was Mr. O. of the importance of this part of the bill, that he would rather not see it pass at all than pass without it. It might, in that event, be rationally expected that the community, realizing the inconveniences to which they would be inevitably exposed, would be awakened to the obligations of a more liberal policy.

Mr. DAVIS said, if he seriously believed that additional salaries would inspire men with brighter talents, he would not object to the increase contemplated by it. But as he knew full well that, in making appointments to office, the only inquiry made would be, what were the candidate's politics, he should object to the increase.

Hitherto, the entire compensation given to the Judges in the Western country has not exceeded \$2,000; and now we add three Judges, whose duties, individually, will of course be greatly diminished, and at the same time increase their compensation!

Mr. HARPER.—The gentleman from Kentucky, in making his remarks on the exclusive inquiry that will be made in respect to the qualifications of a candidate for office, has forgotten to state one circumstance. He has forgotten to state that in appointments to office the choice of talents is altogether confined to men of one description of politics. Though this be the notorious fact—though men of one description of politics possess the great mass of talents—yet it is certain that men of this class possess among themselves different and various degrees of talent. The tendency of this motion is to fill Federal Judicial offices with trifling characters—with men whose want of talents and reputation would degrade the Government, and render it an object of contempt instead of an object of admiration and affection.

If the pride of Tennessee and other States took alarm at the high salaries of the Federal Judges, and, to place themselves on an equality, increased the salary of their own Judges to their standard, he should consider this effect as the strongest argument in favor of the provisions of the bill; and it would be an evidence that their pride enlisted itself on the side of their understanding.

It is in the administration of justice, in the application of our laws to the interests of the people, that the benefits of the Government are felt and brought home to them. Protecting by its salutary energies the lives and the property of the citizens, they feel a respect for the Government from which they derive their support. Shall we, then, seduced by a deceitful spirit of parsimony, after erecting the scaffolding of our Judicial system, hesitate, by the expenditure of a trifling additional sum, to render the system itself respectable? Weighed with such an object, a few thousand dollars was a paltry consideration.

It was not denied that the expenses of living in

some States were greater than in others. But on this ground to graduate a scale of compensations, would be to do what no State had done, and what would inevitably produce unpleasant jealousies.

Mr. S. SMITH was for a liberal but not profuse compensation. He was also for accommodating the compensation made to the duties to be performed, and the expenses of living in the several States.

Heretofore, when the salaries were lower than those proposed by the bill, there had been no want of talents. He said, that in the State of Maryland, the office of District Judge had been twice successively filled by men of first rate talents.

Mr. DENNIS opposed the amendment as it applied to all the Judges. If it were rejected, he would propose an amendment for reducing the salaries of the Judges of Kentucky and Tennessee.

Mr. SMITH was in favor of the amendment. In Pennsylvania the Judges of the Supreme Court received only \$2,000. They were men equal in legal talents to any in the Union, and had to go into every county of the State every year. It was well understood that \$2,000 presented no temptation to a lawyer at the bar of Philadelphia who was in full practice. But did gentlemen suppose patriotism to be so low that all our officers were actuated by mere mercenary views?

Mr. CLAIBORNE again rose, and went over the ground of argument, declaring that his wish was to be frugal, but not parsimonious—liberal, but not profuse. He was persuaded that in Tennessee five suits would not appear on the Federal dockets in a term. For myself, said Mr. C., I pay little regard to that wisdom that rises up in a day—to that wisdom which has sprung up since the third day of December. Our old principles I consider as good ones, and I am still for them. He then moved to strike out the whole section, with a view of introducing an amendment for apportioning the salaries of the Judges to their duties and expenses.

Mr. HARPER said gentlemen had committed one egregious mistake; they had confounded District with Circuit Courts; in the last of which the expenses of the Judge were to be determined by the distance he had travelled, and not by the number of suits he had tried.

Gentlemen were mistaken in their notions about the degree of business in the Federal courts. The very gentleman from Kentucky (Mr. DAVIS) had on a former occasion stated the existence, he knew not of how many hundred suits in the District Court of that State. There was not a doubt of there being in the Western country great litigation about titles to lands, and a lively jealousy of the State courts among claimants who lived at a distance.

The present District Judge of Maryland, notwithstanding the possession of a handsome private fortune, had been obliged to retire from Baltimore and live on his farm. And yet his travelling expenses were trifling compared with those of the Circuit Judges, who have to perform five times as much travelling as the State Judges.

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When you deduct all travelling expenses, you will reduce the salaries below \$1,500.

Mr. S. SMITH.—The gentleman from South Carolina is incorrect in his statement of facts. With respect to the District Judge of Maryland, he believed (as he had the information from the Judge himself) that he had retired of choice to an elegant country seat, which he purchased two years ago, before he was appointed Judge, with a view of residing on it.

Mr. H. LEE was in favor of adequate and liberal compensation to the members of the Judiciary; such compensation attracted to those offices talents, integrity, and reputation, which cemented and strengthened the Union. He did not understand those sentiments of jealousy that were so often expressed. We are too apt to view our Federal Government as a foreign one. These prejudices were unworthy of Americans. As a citizen of Virginia, who was a member of the Union, he beheld the Federal Government with sentiments of filial affection, as the protectress of all the States. He did not suppose that a part of the whole could be expected or ought to render compensations as liberal as the whole itself.

Mr. DAVIS, in reply to the gentleman from South Carolina, (Mr. HARPER,) acknowledged that he had on a former occasion stated the existence of a good deal of business in the District Court of Kentucky. Then there was but one Judge, with a salary of \$1,000; and now, when the business has diminished, we are to have two Judges, whose salaries are to be doubled. He placed no confidence in the hope which some gentlemen cherished of cementing the Union by giving high salaries to our officers. Sir, said Mr. D., it is not the passage of this bill that will produce this great effect. Relieve the people from oppressive taxes, and that will produce the effect.

Mr. CHAMPLIN said the ideas of the gentleman from Tennessee, if carried into effect, would be fatal to the system contemplated by the bill. Each circuit was to be formed of three Judges who would embrace three States. The trouble and expense of Judges in the same circuit would be the same, though one of them might be appointed in a large, and another in a small State. So far as his personal knowledge extended, he was authorized in saying that the district Judge of Rhode Island, from the inadequacy of his salary, had been obliged to fly from the town to the country.

Mr. OTIS was not much surprised at the motion made, so far as it respected Kentucky, but he was greatly surprised at it, so far as it applied to other States. For his part he wished the Government to hold out inducements to men of talents, not broken down by the excessive fatigues of their profession, or by the debility of advanced age. He did not wish the Judicial corps to be a hospital for invalids. Nor did he feel a perfect reliance on the patriotism to which some gentleman had alluded. For he thought a court of justice the worst place that could be imagined for the indulgence of patriotic feelings. It ought to be filled with men, honest, sober, and independent, and so cool as to

be little influenced by the impulses of patriotism. He had been at a loss to account for the high reliance of the gentleman from Pennsylvania on the efficacy of the influences of patriotism, until he recollected that in that State a proposition had lately been made to destroy in effect all the legal decisions, books, and principles, now in existence. Then indeed we might resort to patriotism, as our only remaining refuge.

Mr. NICHOLAS.—The very idea of gentlemen, on which rests their opposition to the present motion, furnishes in reality the strongest argument in its favor. They say that unless you give your Judges salaries that will enable them to run before all the State Judges, you will not make them so respectable as they ought to be; you will not place them on the ground they ought to occupy. In this event will the gentlemen say what becomes of the State Judges? If the reputation of the Federal Judges be increased, will not that of the State Judges be impaired?

As to the idea, avowed by some gentlemen, that this measure will cement and strengthen the Union, Mr. N. considered it as directly the reverse of the truth. Tending, as it did, to aggrandize the Federal at the expense of the State courts, so far from cementing, its immediate influence would go to impair, the Union. In his opinion that man respected as little the Federal Union who, in his zeal for the General Government, overlooks the State Governments, as he who alone regards, to the exclusion of the General Government, the Governments of the several States.

My colleague says that this Government is too often considered in the light of a foreign one. Mr. N. said he did not believe that the charge would be so often made unless there were some truth in it. He would ask his colleague, if immediately after having left his constituents he declares himself a new man, not their particular representative, governed by new views—he would ask him whether such sentiments did not furnish the strongest argument to convince the people that this Government was foreign to their interests, foreign to their settled habits?

It appeared that the greatest compensations made to the State Judges but little exceeded one thousand six hundred dollars; and that in other instances they did not exceed one thousand eight hundred dollars.

Mr. N. thought it would be right to go over the ground, to inquire into the compensations made in the respective States, and to accommodate the salaries of the Federal Judges to what appeared in this view to be adequate. This will enable us to go on prosperously and harmoniously with the State Governments.

Mr. H. LEE spoke with great indignation of the sentiments ascribed to him by his colleague, and declared that he never did say, he defied his colleague to prove it, either in public or private, that he mistrusted the States. He always had considered the States as an essential part of the whole, necessarily benefitted by whatever promoted the general good.

Mr. BAYARD observed that the whole expense

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contemplated to be saved by the amendments was four thousand eight hundred dollars. The measure should not, therefore, on this ground receive opposition. There was in truth nothing to alarm in it. But few subjects could be introduced, in which the tocsin of alarm is not rung against the expenses of the Federal Government. Is it possible that the addition or subtraction of four hundred dollars, as it respects the salaries of our Judges, can affect the sovereignty or independence of the State Governments?

Without amusing ourselves with fine-spun theories we ought to resort to the solid motives that influence men. Patriotism, though a fine sounding word, will not sustain a family. It was a common proverb that few lawyers were born with silver spoons in their mouths. On the contrary, they were generally born in the humble spheres of life; and were incapacitated, however enthusiastic their feelings, from serving their country through pure motives of patriotism. Beside, the direct effect of this amendment, if adopted, will be to throw these offices into the hands of the aristocracy of the country. None but the rich will be able to hold them.

In fixing a compensation we ought to consider what sum will induce lawyers of the first talents to leave their practice. If this end were not accomplished, and men of small talents were placed on the bench, the bar would inevitably rule the bench instead of being ruled by it.

Mr. B., coming from one of the smallest States in the Union, thought himself competent to forming a just opinion of the lowest allowance to the Judges that would be adequate. In the State of Delaware, a lawyer in full practice received at least four thousand dollars; which was double the salary allowed by the bill. From this view of the subject, as well as from the other views that had been taken, he considered two thousand dollars as only a moderate compensation.

As to the idea that the Federal Judges have but little business to do, he thought the fact, even if true, had no weight; as a Judge was not paid so much for the actual duties he performed, as for abandoning his practice, and holding himself prepared for, and applying his talents exclusively to, the public business whenever it occurred.

The question was then put on striking out the section, and lost—yeas 40, nays 43.

A question was then taken on Mr. GREGG's motion, to substitute sixteen hundred dollars in the room of two thousand dollars; and lost—yeas 39, nays 49.

Mr. DENNIS moved to reduce the proposed salaries of the Judges of Kentucky, and of East and West Tennessee to \$1,500.

Mr. CLAIBORNE moved the reduction to \$1,200.

Mr. DENNIS withdrew his motion.

The question was taken on Mr. CLAIBORNE's motion, and carried, yeas 46.

Mr. CHRISTIE hoped that the Committee would rise, and the House adjourn. As the gentleman from South Carolina (Mr. HARPER) appeared to rule the roast on the other side, he trusted he would make no objection.

The Committee accordingly rose, reported progress, and obtained leave to sit again.

Mr. MACON then moved that when the House adjourn, it adjourn till Monday.

Mr. HARPER opposed the motion, which in his opinion arose from a disposition in gentlemen to throw every obstacle in the way of the bill. This was an attempt to procrastinate its progress. He concluded by moving an adjournment in the usual form, whereby the House would be adjourned till to-morrow. The motion was lost.

Mr. MACON's motion then recurred, on which the House divided. The SPEAKER, having counted the members, declared the motion lost—yeas 38, nays 39.

Mr. RANDOLPH said there must be a mistake, and desired another count.

The members took their seats, and the House was again divided; when the motion was carried, there being 43 yeas, 39 nays.

The House then adjourned—yeas 44, nays 39.

MONDAY, January 12.

Another member to wit: ALBERT GALLATIN, from Pennsylvania, appeared and took his seat in the House.

JUDICIARY BILL.

The House again resolved itself into a Committee of the Whole on the bill to provide for the more convenient organization of the Courts of the United States; and, after some time spent therein, the bill was reported with several amendments thereto, which were read.

The amendment, reported from the Committee of the whole House, to the fifth section of the said bill, being under consideration, to wit: To insert, in lieu of certain words stricken out from the fifth section by the Committee of the whole House, the following words:

"Eastward of a line, to be drawn from the river Potomac, at Harper's Ferry, along the Blue Ridge, with the line which divides the counties on the East side thereof from those of the West side thereof, to the North Carolina line, to be called the Eastern District of Virginia; one to consist of the remaining part of the said State of Virginia, to be called the Western District of Virginia."

The question was taken that the House do agree to the same, and resolved in the affirmative—yeas 49, nays 42, as follows:

YEAS—George Baer, Bailey Bartlett, James A. Bayard, John Bird, John Brown, Christopher G. Champlin, William Cooper, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Henry Glen, Samuel Goode, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Archibald Henderson, William H. Hill, Benjamin Huger, James H. Imlay, John Wilkes Kittera, Silas Lee, Lewis R. Morris, Abraham Nott, Harrison G. Otis, Robert Page, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, Nathan Reed, John Rutledge, William Shepard, John C. Smith, James Sheafe, Samuel Tenney, George Thatcher, John Chew

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Thomas, Richard Thomas, Robert Waln, Lemuel Williams, and Henry Woods.

NAYS—Willis Alston, Theodorus Bailey, Phanuel Bishop, Robert Brown, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, Albert Gallatin, Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, George Jackson, Aaron Kitchell, Michael Leib, James Lynn, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, John H. Nicholson, John Randolph, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

Several other amendments reported by the Committee of the whole House to the said bill, were, on the question severally put thereupon, agreed, and others disagreed to by the House; but an adjournment being called for, the several orders of the day were further postponed, and then the House adjourned.

TUESDAY, January 13.

Ordered, That Mr. GALLATIN be added to the committee appointed, twenty-eighth of November last, to prepare and bring in a bill for regulating the grants of land appropriated for the refugees from the British provinces of Canada and Nova Scotia.

The House being informed that JAMES JONES, one of the members for the State of Georgia, died this morning;

Ordered, That Mr. TALIAFERRO, Mr. NICHOLAS, Mr. CHAUNCEY GOODRICH, Mr. MACON, and Mr. HUGER, be appointed a committee to take order for superintending the funeral of the said JAMES JONES, and that this House will attend the same.

Resolved, unanimously, That the members testify their respect for the memory of the said JAMES JONES, by wearing crape on the left arm for one month.

Resolved, That the SPEAKER address a letter to the Executive of Georgia, to inform him of the death of JAMES JONES, late a member of this House, in order that measures may be taken to supply the vacancy occasioned thereby.

JUDICIARY BILL.

The House resumed the consideration of the amendments reported from the Committee of the whole House to the bill to provide for the more convenient organization of the Courts of the United States; whereupon the amendments reported from the Committee of the Whole House, to the thirteenth section, being under consideration, to fill the blank in the thirteenth line thereof, with the word "four," the question was taken that the House do agree to the same, and resolved in the affirmative—yeas 71, nays 18, as follows:

YEAS—Willis Alston, George Baer, Theodorus Bailey, Bailey Bartlett, James A. Bayard, John Bird, John

Brown, Robert Brown, Christopher G. Champlin, Gabriel Christie, John Condit, William Cooper, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, Thomas T. Davis, John Dennis, George Dent, Joseph Dickson, William Edmond, Joseph Eggleston, Thomas Evans, Abiel Foster, Jonathan Freeman, Albert Gallatin, Henry Glen, Samuel Goode, Chauncey Goodrich, Elizur Goodrich, Edwin Gray, Andrew Gregg, Roger Griswold, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Joseph Heister, Archibald Henderson, David Holmes, Benjamin Huger, James H. Imlay, George Jackson, Henry Lee, Michael Leib, Lewis R. Morris, Peter Muhlenberg, John Nicholas, Harrison G. Otis, Robert Page, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, Nathan Reed, John Rutledge, William Shepard, John Smith, John C. Smith, Thomas Sumter, James Sheafe, Samuel Tenney, George Thatcher, John Chew Thomas, Richard Thomas, John Thompson, John Trigg, Philip Van Cortlandt, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

NAYS—Phanuel Bishop, Mathew Clay, William C. C. Claiborne, John Dawson, Lucas Elmendorf, Aaron Kitchell, James Linn, Nathaniel Macon, Anthony New, Joseph H. Nicholson, Abraham Nott, John Randolph, John Smilie, Richard Dobbs Spaight, Richard Stanford, Abram Trigg, Joseph B. Varnum, and Robert Williams.

The amendment, reported from the Committee of the whole House, to the seventeenth section, being under consideration, to wit: to add to the end thereof, the following words:

"Nor shall any District or Circuit Court have cognizance of any suit to recover the contents of any promissory note or other chose in action in favor of an assignee, unless a suit might have been prosecuted in such court to recover the said contents, if no assignment had been made, except in cases of foreign bills of exchange."

A motion was then made and seconded further to amend the said amendment, by adding to the end thereof, the following words, to wit: "and of promissory notes and bonds, payable to order or assigns."

And, the question being taken that the House do agree to the said amendment to the amendment, it passed in the negative—yeas 36, nays 53, as follows:

YEAS—Bailey Bartlett, James A. Bayard, John Bird, John Brown, Christopher G. Champlin, William Cooper, Samuel W. Dana, John Davenport, Franklin Davenport, William Edmond, Abiel Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, Robert Goodloe Harper, Archibald Henderson, James H. Imlay, Lewis R. Morris, Harrison G. Otis, Thomas Pinckney, Jonas Platt, John Reed, Nathan Reed, John Rutledge, jun., William Shepard, John C. Smith, James Sheafe, Samuel Tenney, George Thatcher, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

NAYS—Willis Alston, George Baer, Theodorus Bailey, Phanuel Bishop, Robert Brown, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, William Craik, Thomas T. Davis, John Dawson, John Dennis, George Dent, Joseph Dickson, Joseph Eggleston, Lucas Elmendorf, Thomas Evans, Albert Gallatin, Samuel Goode, Edwin Gray, Andrew Gregg, William

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Barry Grove, John A. Hanna, Joseph Heister, David Holmes, Benjamin Huger, George Jackson, Aaron Kitchell, Michael Leib, James Linn, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, Abraham Nott, Robert Page, Leven Powell, John Randolph, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, Thomas Sumter, John Chew Thomas, John Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

The question was then taken that the House do agree to the amendment, as originally reported from the Committee of the Whole House, to the said seventeenth section and resolved in the affirmative—yeas 55, nays 35, as follows:

YEAS—Willis Alston, Geo. Baer, Theodorus Bailey, Bailey Bartlett, Phaniel Bishop, Robert Brown, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, William Craik, Thomas T. Davis, John Dennis, George Dent, Joseph Dickson, Joseph Eggleston, Lucas Elmendorf, Thomas Evans, Albert Gallatin, Samuel Goode, Elizur Goodrich, Edwin Gray, Andrew Gregg, William Barry Grove, John A. Hanna, Joseph Heister, David Holmes, Benjamin Huger, George Jackson, Aaron Kitchell, Michael Leib, James Lynn, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, Abraham Nott, Robert Page, Leven Powell, John Randolph, Nathan Read, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, Thomas Sumter, John Chew Thomas, John Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

NAYS—James A. Bayard, John Bird, John Brown, Christopher G. Champlin, William Cooper, Samuel, W. Dana, John Davenport, Franklin Davenport, John Dawson, William Edmond, Abiel Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, James H. Inlay, Henry Lee, Silas Lee, Lewis R. Morris, Harrison G. Otis, Thomas Pinckney, Jonas Platt, John Reed, John Rutledge, William Shepard, John C. Smith, James Sheafe, Samuel Tenney, George Thatcher, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

Ordered, That the further consideration of the said bill and amendments be postponed until Thursday next.

WEDNESDAY, January 14.

Ordered, That a message be sent to the Senate to inform them that the funeral of JAMES JONES, Esq., a member of this House, who died yesterday, will be attended this day at twelve o'clock; and that the Clerk of this House do go with the said message.

THURSDAY, January 15.

The following resolution was referred to a Committee of the Whole:

Resolved, That a committee be appointed to bring in a bill to repeal the act entitled, "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States," with a proviso that nothing therein contained shall be construed so as to prevent the assessing and collecting of the direct tax, passed the 14th July, 1798.

Mr. OTIS, as chairman of the committee appointed to inquire into the state of the Treasury, in conformity with the request of the late Secretary, informed the House that the committee expected to be prepared to report in two or three days. In making the investigation, the committee had not considered it as incumbent on them to enter into an examination of all those long details which had already been under the eye of the House. They had, however, carefully examined those statements which had not been minutely exhibited to the House; and, indeed, had made every inquiry that, in their opinion, was necessary to a correct understanding of the state of the Treasury. As, however, the committee, in the inquiry made, had been left almost entirely to their own discretion, and might perhaps have failed to take all those views that members might desire, he was instructed by the committee, at the instance of the Secretary and Comptroller of the Treasury, to invite any members, who were desirous of having any particular information, to state their request, which might be attained by proposing specific instructions to the committee, who would most cheerfully co-operate in the furtherance of their object.

Mr. OTIS presented a long letter from the Secretary of the Navy, exhibiting a comprehensive view of the Naval Department, which was ordered to be printed without being read.

Mr. OTIS presented a petition, praying the interposition of Congress in affording relief to the holders of certain descriptions of paper money, whose reference he moved to the Committee of Claims.

The reference was opposed by Messrs. MACON and GRISWOLD, on the ground of the prayer of the petition having been already decided upon. On the question, the reference was lost by almost an unanimous vote. It was then resolved that the prayer of the petition cannot be granted.

The House then went into a Committee of the Whole on the report of the Committee of Ways and Means, on a motion made by Mr. COOPER to repeal the act for the valuation of lands and dwelling houses, &c.

On this subject some debate ensued, which terminated in the Committee of Ways and Means being instructed to inquire into the expediency of repealing the act.

A motion was made to go into a Committee of the Whole on the report of the Committee of Revision and Unfinished Business, recommending a continuation of the Sedition law, which was rejected.

DUTIES ON LICENSES, &c.

The House went into Committee of the Whole on the bill to continue in force the acts laying duties on licenses for selling wines and foreign distilled spirits by retail, on property sold at auction, and on carriages for the conveyance of persons.

The CHAIRMAN reported an amendment, limiting the duration of the bill (which was originally without limitation) to the 3d of March, 1803. On the question of agreeing thereto, the yeas and nays were taken, and were—yeas 41, nays 47, as follows:

YEAS—Willis Alston, Theodorus Bailey, Phaniel Bishop, Robert Brown, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, George Dent, Joseph Eggleston, Lucas Elmendorf, Albert Gallatin, Samuel Goode, Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, George Jackson, Aaron Kitchell, Michael Leib, Matthew Lyon, James Lynn, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, John Randolph, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

NAYS—Bailey Bartlett, James A. Bayard, John Brown, Christopher G. Champlin, William Cooper, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Archibald Henderson, William H. Hill, Benjamin Huger, James H. Imlay, John Wilkes Kittera, Henry Lee, Lewis R. Morris, Abraham Nott, Harrison G. Otis, Robert Page, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, Nathan Read, John Rutledge, William Shepard, John C. Smith, James Sheafe, Samuel Tenney, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

Ordered, That the said bill, with the amendment, be engrossed, and read the third time to-morrow.

FRIDAY, January 16.

DUTIES ON LICENSES, &c.

An engrossed bill to continue in force the acts laying duties on licenses for selling wines and foreign distilled spirits by retail; on property sold at auction, and on carriages for the conveyance of persons, was read the third time; and, on the question that the same do pass, it was resolved in the affirmative—yeas 46, nays 31, as follows:

YEAS—Willis Alston, George Baer, Bailey Bartlett, John Brown, John Condit, William Cooper, John Davenport, Franklin Davenport, John Dennis, George Dent, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Henry Glen, Samuel Goode, Chauncey Goodrich, Elizur Goodrich, Andrew Gregg, Roger Griswold, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Archibald Henderson, William H. Hill, Benjamin Huger, James H. Imlay, John Wilkes Kittera, Henry Lee, Silas Lee, Lewis R. Morris, Abraham Nott, Harrison G. Otis, Robert Page, Jonas Platt, John Rutledge, John C. Smith, James Sheafe, Benjamin Taliaferro, Samuel Tenney, John Chew Thomas, Peleg Wadsworth, Robert Waln, Robert Williams, Lemuel Williams, and Henry Woods.

NAYS—Theodorus Bailey, John Bird, Phaniel Bishop, Robert Brown, Matthew Clay, William Charles Cole Claiborne, John Dawson, Joseph Eggleston, Lucas Elmendorf, Albert Gallatin, Edwin Gray, Joseph Heister, David Holmes, George Jackson, Aaron Kitchell, Michael Leib, Matthew Lyon, James Lynn, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, John Smilie, John Smith, Samuel Smith, Richard Stanford, Thomas Sumter, John Thompson, Abram Trigg, John Trigg, and Joseph B. Varnum.

THE JUDICIARY BILL.

The House resumed the consideration of the amendments reported from the Committee of the whole House to the bill to provide for the more convenient organization of the Courts of the United States; and the said amendments being again read, were, on the question severally put thereupon, agreed to by the House.

The said bill was then further amended at the Clerk's table; and, together with the amendments, ordered to be engrossed, and read the third time on Tuesday next.

MONDAY, January 19.

Mr. WALN, from the committee to whom was referred, on the tenth ultimo, the petition of Samuel Lewis, senior, made a report; which was read and considered: whereupon,

Resolved, That a committee be appointed to bring in a bill to discharge Samuel Lewis, senior, from his imprisonment upon a judgment obtained against him in favor of the United States; with a proviso, that he shall first assign and convey all the estate, real and personal, which he may now own, and be entitled to, for the use of the United States; and that the said judgment shall remain in full force against any estate which the said Samuel Lewis may hereafter acquire.

Ordered, That Mr. WALN, Mr. GROVE, and Mr. IMLAY, be appointed a committee, pursuant to the said resolution.

Mr. WALN, from the last mentioned committee, presented a bill to discharge Samuel Lewis, senior, from his imprisonment; which was twice read and committed to a Committee of the Whole House to-morrow.

Mr. SAMUEL SMITH from the Committee of Commerce and Manufactures, presented a bill to incorporate the persons therein named and their associates, as a mine and metal company; which was read twice and committed to a Committee of the whole House on Thursday next.

Mr. SAMUEL SMITH, from the same committee, presented a bill to provide for the erection and support of a light-house on Cape Poge, at the north-easterly part of Martha's Vineyard; which was read twice and committed to a Committee of the whole House to-morrow.

Mr. NEW, from the committee appointed, on the twenty-eighth of November last, to prepare and bring in a bill for regulating the grants of land appropriated for the refugees from the British provinces of Canada and Nova Scotia, made a report; which was read, and committed to a Committee of the whole House on Wednesday next.

Mr. NEW, from the same committee, presented, a bill regulating the grants of land appropriated for the refugees from the British provinces of Canada and Nova Scotia; which was twice read and committed to a Committee of the whole House last mentioned.

The House went into a Committee of the Whole on the report of the committee to whom was referred, on the second instant, the petition of Solomon Boston; and, after some time spent therein,

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Francis B. Chandler.

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the Chairman reported that the Committee had had the said report under consideration, and directed him to report their agreement to the same.

The said report being then read at the Clerk's table, in the words following, to wit:

"That the petitioner is, and for upwards of six months last past, has been confined in the public jail at Dover, in the State of Delaware, upon process at the suit of the United States, founded upon a judgment for one thousand dollars, being a penalty forfeited by the petitioner under the act of Congress, regulating the collection of duties on imports and tonnage. It appeared to the committee, that under the same act the petitioner had forfeited and lost a vessel and the cargo on board of her; and that he is destitute of any means of satisfying the judgment against him. The committee having taken into consideration the offence committed by the petitioner, and the punishment he has suffered, are of opinion, that the petitioner has been sufficiently punished for the wrong done by him, and that he ought to be relieved by an exoneration from any further claim against him on the part of the United States."

Resolved, That this House do agree to the same, and that Mr. BAYARD, Mr. THATCHER, and Mr. SPAIGHT, be a committee to prepare and bring in a bill or bills pursuant thereto.

FRANCIS B. CHANDLER.

The House then went into a Committee of the Whole on the report of the committee to whom was referred, on the eighth instant the petition of Francis B. Chandler and others; and, after some time spent therein, the Chairman reported that the Committee had had the said report under consideration, and directed him to report to the House their agreement to the same.

The said report being then read at the Clerk's table, in the words following, to wit:

"That the object of the petitioners is to obtain an extension of the seventy-ninth section of the act of Congress, entitled "An act to regulate the collection of duties on imports and tonnage," so as to include Frederick town, on the river Sassafraz, in the routes allowed for the transportation of goods to and from Philadelphia and Baltimore. The committee, perceiving no inconvenience relative to the revenue, which could arise from complying with the request of the petitioners, are of opinion that the prayer of their petition ought to be granted."

Resolved, That this House do agree to the said report, and that Mr. BAYARD, Mr. FOSTER, and Mr. LINN, be a committee to prepare and bring in a bill or bills pursuant thereto.

On motion, it was

Resolved, That a committee be appointed to inquire and report by bill, or otherwise, the expediency of making further provision by law to facilitate the communication between different parts of the United States, by means of post roads.

Ordered, That Mr. HENRY LEE, Mr. CHAUNCEY GOODRICH, Mr. SHEAFE, Mr. SAMUEL SMITH, and Mr. HARPER, be appointed a committee, pursuant to the said resolution.

The House then resolved itself into a Committee of the Whole on the bill for the relief of William Nichols, late Marshal of Pennsylvania; and,

after some time spent therein, the Chairman reported that the Committee had had the said bill under consideration, and made no amendment thereto.

Ordered, That the said bill be engrossed and read the third time to-morrow.

TUESDAY, January 20.

An engrossed bill, entitled "An act for the relief of W. Nichols, late Marshal of Pennsylvania," was taken up for a third reading.

Mr. GREGG said, that when this bill was before the House yesterday, there appeared a very considerable difference of opinion as to facts. He believed papers might now be obtained which were not before the Committee of Claims, when they reported the bill, that would enable them to make such a statement of facts as would reconcile these different opinions, and lead to a different decision from that contemplated by the bill. He would therefore move that it be committed to the Committee of Claims. This motion was carried in the affirmative.

A memorial of Sylvanus Bourne, Consul General of the United States for the Batavian Republic, in behalf of himself and many of his colleagues residing in Europe, was presented to the House and read, praying that a law may be passed for allowing a general compensation to Consuls of the United States, for services by them rendered. Referred to the Committee of Commerce and Manufactures.

The SPEAKER laid before the House a letter from the Commissioners of the City of Washington, requesting that an arrangement may be made for the accommodation of the Supreme Court of the United States in the Capitol.

Ordered, That the said letter be referred to Mr. RUTLEDGE, Mr. KITTERA, and Mr. SILAS LEE.

Mr. BAYARD, from the committee appointed, presented a bill for the relief of Solomon Boston; which was twice read, and ordered to be engrossed and read the third time to-morrow.

A message from the Senate informed the House that the Senate have disagreed to the bill, entitled "An act for the relief of Robert Hooper."

Mr. PINCKNEY, from the committee appointed, presented a bill giving a right of pre-emption to certain persons who have contracted with John Cleves Symmes, or his associates, for lands lying between the Miami rivers, in the Territory of the United States Northwest of the Ohio; which was read twice and committed to a Committee of the whole House to-morrow.

Mr. BAYARD, from the committee appointed, presented a bill to allow the transportation of goods, wares, and merchandise, to and from Philadelphia and Baltimore, by the way of Appoquinimink, and Sassafraz; which was read twice and committed to a Committee of the whole House.

Mr. SAMUEL SMITH, from the Committee of Commerce and Manufactures, presented a bill making the port of Biddeford and Pepperelborough, and the port of New Bedford, in Massachusetts, ports of entry for ships or vessels arriving from the Cape of Good Hope, and from places be-

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yond the same; which was read twice and committed to a Committee of the whole House tomorrow.

The House resumed the consideration of the resolution reported on Thursday last, from the Committee of the whole House to whom was committed the report of the committee on the memorial of Matthew Patterson and others.

And the said resolution being again read, in the words following, to wit:

Resolved, That for extending the benefits of civil government to the settlers on and near the head of French Broad river, it is expedient to cede to the State of South Carolina the right of soil and jurisdiction, in, of, and to, such part or parts of any lands which may be found to belong to the United States, and which lie to the South of the thirty-fifth degree of latitude, and contiguous to the western boundary of that State, as will include the lands at present occupied by the said settlers.

Ordered, That a bill or bills be brought in, pursuant to the said resolution; and that Mr. NOTT, Mr. BIRD, and Mr. HARPER, do prepare and bring in the same.

The House, then went into a Committee of the Whole on the bill to provide for the erection and support of a light-house on Cape Poge, at the northeasterly part of Martha's Vineyard; and reported one amendment thereto; which was twice read, and agreed to by the House.

Ordered, That the said bill, with the amendment, be engrossed, and read the third time tomorrow.

JUDICIARY BILL.

An engrossed bill to provide for the more convenient organization of the Courts of the United States was read the third time, and, on the question that the same do pass, it was resolved in the affirmative—yeas 51, nays 43, as follows:

YEAS—George Baer, Bailey Bartlett, James A. Bayard, John Bird, John Brown, Christopher G. Champlin, William Cooper, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glen, Samuel Goode, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Archibald Henderson, William H. Hill, Benjamin Huger, James H. Inlay, John Wilkes Kittera, Henry Lee, Silas Lee, Lewis R. Morris, Harrison G. Otis, Robert Page, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, Nathan Read, John Rutledge, William Shepard, John C. Smith, James Sheafe, Samuel Tenney, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

NAYS—Willis Alston, Theodorus Bailey, Phanuel Bishop, Robert Brown, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, Albert Gallatin, Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, George Jackson, Aaron Kitchell, Michael Leib, Matthew Lyon, James Lynn, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, John Randolph, John Smilie, John Smith,

Samuel Smith, Richard Dobbs Spaight, Richard Stanford, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

WEDNESDAY, January 21.

An engrossed bill to provide for the erection and support of a light-house on Cape Poge, at the northeasterly part of Martha's Vineyard, was read the third time, and passed.

An engrossed bill for the relief of Solomon Boston was read the third time, and passed.

A Message, was received from the President of the United States, transmitting a report of the Director of the Mint, which was read, and ordered to lie on the table.

A resolution in the following words, presented to the House by Mr. RUTLEDGE, was read and ordered to lie on the table:

Resolved, That a committee be appointed on the part of this House, jointly with a committee on the part of the Senate, to ascertain and report a mode of examining the votes for President and Vice President, and of notifying the persons elected of their election, and to regulate the time, place, and manner, of administering the oath of office to the President.

Mr. NICHOLSON proposed a resolution in the following words, which was read and ordered to lie on the table, viz:

Resolved, That a committee be appointed to inquire into the expediency of making further provision to prevent the concealing and harboring of slaves escaping from one State into another, and that they report by bill or otherwise.

SEDITION ACT.

The House went into Committee of the Whole on a resolution reported by the Committee of Revision and Unfinished Business for continuing in force the act commonly called the Sedition law.

The resolution reported by the committee was, that it would be expedient to renew the law in addition to the act for the punishment of certain crimes against the United States.

Mr. PLATT, chairman of the committee, explained the reasons of the committee for proposing a resolution for its continuation. The only arguments that could be adduced against it were, as to the constitutionality and as to the expediency of the measure. That it was Constitutional, he contended could be well and plainly proved without entering into the question upon the grounds and proofs exhibited at the period of the original passage of the bill, from the decision in its favor, after a lengthy examination in both Houses of Congress, and its adoption into a law. Added to this was the solemn decision and concurrence of the Judiciary.

After these deliberate decisions in favor of it, to doubt the constitutionality of this law would be absurd. To those who took every occasion to show their opposition to the Government, and were accustomed to vilify the conduct of its warmest adherents, this law must be obnoxious; but those who considered the Government a bless-

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sing, and worthy the protection of a free people, must approve of the provisions of this law, as one of the most valuable institutions in its support.

As to the expediency of the measure, the committee thought it was a wholesome and ameliorating interpreter of the common law, established to assist the Government upon the most fair and equitable principles. On the one hand, the right of the Government in support of itself is established; on the other, that right of protection is so established as not to injure in the least the honest and well-intended individual, but to afford him the means of exculpating himself, although engaged in scrutinizing measures of the administration of the Government; for, unless it can be made evident to a court and jury that the thing written was done with a false and malicious intention, the precaution is useless. He saw nothing in this law, notwithstanding all that had been said about it, which an honest man ought to fear. No Government in the world demanded the public confidence more than ours, when well administered; and should a Government be brought into popular disrepute with impunity, through the false and malicious writings of those who peaceably enjoy its blessings? He trusted not.

The House had been told on a former occasion that the sun of Federalism was about to set: he confessed that he viewed with horror the awful night that would follow. But, notwithstanding that, whilst he possessed a seat in that House, he thought himself bound to legislate in favor of measures to support the Government which the people had honored by their choice. This reverse of things should never drive him from measures which it became his duty upon the most solemn conviction to adopt, since no injury could result but to those whose wilful and habitual slander opposed it by falsehood. For his part, he was not afraid of the new order of things; he had nothing to fear from the existence of this law.

To those who believed the rules of common law of force and effect in the United States, this law must be truly gratifying. By the common law two practices were established, which this law most effectually removed by its ameliorating provisions. First, the common law rejected the evidence of truth in cases of libel. Secondly, the court had unlimited authority to ascertain the penalty. By this law the truth must be given in evidence, and the penalty is ascertained. He trusted that whilst the liberty of speech and of the press (privileges to be prized above all others) were made secure, the House would see the propriety of preventing the unlimited abuse of this blessing, so injurious to the preservation of social order—an abuse which was to be judged as to its extent by an impartial jury—a privilege by which are secured to every individual, and to the Government, equal rights.

Mr. Davis said, the gentleman from New York and himself had as different feelings as to the manner of deciding the constitutionality of the law, as they had of its utility. Had the decisions of the courts been made with all the moderation and solemnity that usually attend judicial decisions,

he might answer that there had been proceedings in the courts of the United States calculated to establish the constitutionality of that law, so far as the opinions of the Judges went. For he must acknowledge that the Judges had the power of deciding the constitutionality of a law under which they were to act; but he denied that those deliberate decisions had been made under it, that ought to establish it as a Constitutional law with the Judges generally. Even in Great Britain, where we are too apt to look for examples, he believed such hasty adjudications could not be found. He was acquainted with English books, and could not then recollect any case where the accused had been summoned, indicted before the grand jury, and tried by the venire or petit jury, in the space of a few hours, or one day at most; more especially where the accused had made affidavit that he had material witnesses absent, as had been the case in two trials under this Sedition law, one at Philadelphia, the other in Richmond, Virginia. If those were decisions that had rivetted the constitutionality of the law in the mind of the gentleman from New York, he had taken slippery ground, from which he could be easily driven. But a Judge of the United States having determined the law to be Constitutional, did not bring conviction to his mind. He still entertained the same opinion he had formerly entertained, and he believed it would be difficult to persuade the American people that the law was either Constitutional or expedient. The gentleman from New York says there is nothing in the law an honest man should object to. Why then do honest men take shelter behind it? We are all fond of having our good deeds made public, and of concealing our bad ones. Now let the public judge who are the honest men; that gentleman and his political associates, or myself and those who usually vote with me. We are willing to submit our actions to public scrutiny, and to rise or fall by public opinion.

If that gentleman and his friends intend to act honestly, why do they wish this law to hide their actions? Why lay the hands of power on the lips of the people, who ought to have the right of examining their political conduct and approving or condemning it? While they boast of honesty, why skulk in darkness and shelter behind a sedition law? In my opinion, this neither argues honesty, nor is ominous of good; at all events this is the true difference between the parties in this House. That gentleman and his friends form a party who wish to conceal their public conduct from the prying eyes of the public, and who say, if you see you shall not speak. Myself and my political associates are willing to spread our actions before the tribunal of the people, and to be judged by them. Now let the world judge who are the honest men, we, who expose our actions to public view, and say to them, judge, and approve or condemn us for our deeds; or those who say, be silent; we are above you; if you open your lips the penalty of the law shall be inflicted on you.

We are told by the gentleman from New York,

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there is to be a new order of things. I believe there will be. It looks as if we should burn all the old and begin a new. What! are gentlemen not contented with the Sedition law to protect them, do they want a wall of fire around them?

This law has been in force two years, and what have been its effects? A few printers, and a few miserable newspaper scribblers, have fallen victims to it, and it has disgusted a large portion of the American people who have loaded your table with petitions praying for the repeal of the obnoxious law; and why will you again agitate the public mind by reviving a law so foreign to their feelings and hateful to their sights? Will gentlemen never yield their party views to the public voice, and drop a law that has produced so much discontent?

If this law had been good and Constitutional, and but a few people had been dissatisfied with it, there would be some excuse for continuing it; but the very reverse is the fact. I am not afraid of the law, I am not afraid that I shall ever be subject to its operation, for, in my opinion, the Administration, when it is presented in the fairest forms of truth, will afford sufficient ground for all my animadversions. I can turn to pages, and lay my finger on paragraphs which would authorize me to say more than I wish to.

The gentleman from New York says, they have been told that the sun of Federalism would shortly set. I, on a former occasion, did say so, and I again repeat it; this very law, if it has ever done any good, has done it in this way. I believe it has hastened the declension of the Federal sun. Instead of controlling public opinion, as it was intended, the opposite effect has been produced; men have acted up to their opinions, though they were forbidden to speak. Your own weapons have been turned against you; you find the public mind acting strongly against you, though it dare not speak.

The gentleman from New York says, that those who consider Government an evil will vote against this law. I consider good Government a blessing, and am, therefore, willing to let the people examine freely and fairly the fruits of Government. Those who wish to make it a curse, wish also to conduct it out of the sight of those immediately interested in its operations. This hidden way of conducting the concerns of the nation will never be pleasing to the free people of America. Already very many of them are opposed to the Administration, and, while you conduct their important concerns out of their sight, they will be jealous, and withdraw their affections from an Administration that shuns the light.

Mr. RANDOLPH said, when he first considered this report, he viewed it merely as the fulfilment of an obligation which the committee thought imposed upon them by the House, and he had supposed that it would have been suffered to remain on the table without any intention of being called up.

He would not enter into a view of the unconstitutionality of the law. How strongly soever the gentleman supposed that question to have

been decided by the Congress who passed the law, he would tell that gentleman and all his adherents, that he had a still higher tribunal to appeal to—one higher than they could produce: he meant the American people. Their voice was more powerful than that of those courts and this President, to whom the gentleman referred. The will of the people had been fairly and fully expressed upon this subject, and, notwithstanding all inferior decision, this ought and this ultimately must be attended to; the people would be heard. He would ask gentlemen whether it was expedient, at this time, for the House to show their contempt of the opinions of the people; whether it was prudent to insult their understanding in a matter so well appreciated by them as this law, and at a period when they have so evidently declared that their rights shall be no longer infringed? The moment in which this measure was renewed, reminded him of the spirit which actuated the fallen angel, as related by the great poet of the English language: when he could no longer be victorious, he would evince his revenge.

The Legislature of the State which he had the honor to represent, Mr. R. said, had given instructions to her Representatives and Senators in Congress, to oppose, by every effort in their power, any attempt that might be made to renew this monstrous and destructive act. From which, were he not even convinced of its unconstitutionality, of which he could not entertain a doubt, he felt himself particularly bound to express the opinion of that State, and to give his utmost opposition to the law in its several stages. Were he to act otherwise, he really ought to humble himself in dust and ashes before an insulted and indignant people, for the perpetration of an act so inimical to their instructions, as well as to all the feelings and good sense of the American people.

Mr. GRISWOLD said, it would be well for the Committee to attend to the whole of the law. The gentleman said that all the old writings were destroyed, and we must begin anew.

[Mr. DAVIS explained, that he said it seemed as though the old papers were to be burned up and that we should begin anew.]

Mr. GRISWOLD then hoped, from a due examination of this law, this would be one part he would wish to preserve from destruction. Surely the insinuations made against the whole law could not be of force; some of its parts were certainly unobjectionable. The first part provides a punishment against unlawful combinations to oppose the National Government. It is possible, said Mr. G., the gentleman may think such persons ought not to be punished, but I do; and, in my opinion, the preservation of this provision is essential to our very existence.

Another part is against persons who rise in insurrection, or those who encourage it by counselling and abetting it. That such acts should be punished appears to me a self-evident proposition, whatever the gentleman might think of it; yet he thinks the law ought not to be renewed! Surely a moment's consideration must prove that such persons ought to be punished, and that their punishment

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ought not to be left to the unlimited discretion of the court as by common law, but should be defined by a statute.

But the most essential opposition appears to be against that part where libelling the Government is made an offence and punishable. That this part should be opposed by a gentleman whose orderly conduct removes him beyond the fear of the penalty, he was much surprised. What is the effect of this provision? It is, that if any person should publish untruths against the Government, with an intent to bring it into disgrace, such offender should be punished. Is there any gentleman in this Committee who wishes to publish falsehoods, and malicious falsehoods? He trusted not; and, if not, why should gentlemen be unwilling to make this wilful offence punishable by statute? There could be no ground for alarm, since the penalty was only intended to affect the publication of falsehoods. Falsehoods tended to much evil; nay, they were evil in themselves, and it was necessary to punish them, in order to preserve to the Government its merited popularity. The provision was exceedingly important, and he thought the ideas of his friend from New York must have considerable weight with the Committee.

It was a well known fact, that at common law the truth could not be given in evidence; it was equally well known, that the punishment for crimes was left undefined, and at the will, he had almost said the arbitrary will, of the court. He did not think it right to leave this power in the hands of the court, nor did he think it right to stifle the evidence of truth in behalf of the accused. He did not believe it to be the wish of the House or of the Administration to suppress truth; if the Government acted in such a manner as not to bear the test of truth, it certainly merited animadversion, and with severity. To continue the right of giving truth in evidence, and to keep the power of prescribing a punishment with the Legislature, he hoped the law would be re-enacted.

As a Constitutional question, he thought no doubt could now exist, whatever might have been entertained before the question was settled on its present principles. The Judiciary had decided it to be a law effectually within the Constitution. There might be some other quorum to which gentlemen would wish to appeal; perhaps they might be better satisfied by appealing to the people, but he could not be. He believed the decision to be made in a Constitutional mode, and was desirous of giving it his decided support.

Mr. NICHOLSON said, had he been a member of the House at the time when this bill passed, he should have most assuredly given his opinion that it was unconstitutional and inexpedient; and all that he had heard or seen since that period, in the various examinations it had undergone, had not contributed to create a doubt in his mind upon the accuracy of that decision. It had ever been his opinion that a virtuous Administration, whose actions flowed from good motives, required not the aid of a statute to defend it from the attacks of slander. The abuse of the power confided by the people, and not its Constitutional use, could

alone fear the shafts of reproach, and power thus used merited no better fate.

These, Mr. N. said, were his ideas, at the period when the bill passed. If its inexpediency was so evident to him at that period, how much more so must it appear at the present time! In order to call this to the view of the Committee, he would bring to their remembrance the prosecutions which had taken place under it during the two years of its existence, from which he could make it plainly appear that the administration of this law was extremely objectionable.

The first fact he noticed was, the arraignment, trial, and conviction of a member of the House, who was committed under the care of a severe keeper, to an unwholesome and loathsome dungeon, and the treatment of that member whilst in confinement; in all of which were evinced a spirit of party highly unworthy the character this country ought to bear. The next was the case of a printer, who was made to stand on his trial, but notwithstanding he pleaded the necessity of producing evidence, which he stated was material to his defence, time was refused him to procure their attendance. He need not expatiate, he presumed, on the rights of every man to demand, when brought before a tribunal of justice, time to produce witnesses material for his defence, or of the right of the court to grant every opportunity to afford the means of defence: these were too evident to be opposed. Another instance was that of a trial proceeding, wherein important testimony was asked, but refused, because the person required to give the evidence was a high officer of the Government. The accused was told by the judge that he had no right to that testimony. Another instance had occurred of testimony, stated to be material to the defence, but, because it was at a distance, time was refused to produce it, and the trial and judgment proceeded without it. Another, and more fatal instance, was that of a printer, who died in prison, where he lay convicted under that law. From a view of all these cases, Mr. N. said, he must conclude that the administration of this law was extremely objectionable. Although many of these persons were foreigners, yet they had not the less claim upon the justice of the country. It mattered not whether they came from the tropics, from the poles, or whether they first drew their breath in this country, all men possessed an equal right of demanding a free and impartial trial, and to all men alike it ought to be granted.

It was and might be further urged, that the act was only aimed at false and malicious libels, tending to defame the Government. He granted it; but who were to be the judges? The bench themselves; they perhaps might be the subjects of animadversion, but if not, were the creation of the person grieved. By them the materiality of the testimony, which ought to go to the jury, was to be judged, and, therefore, the principle that the truth might be given in evidence, was of but little importance, if that truth was not suffered to appear.

The gentleman from Connecticut (Mr. GRIS-

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would) had adduced parts of this law, which he supposed could not be objected to. Mr. N. admitted that the cases of insurrection and unlawful combination against the Government, ought to be provided against, and if the gentleman had proposed a resolution for the continuance of those parts, he would not have objected. No, the objectionable part was that which the people of the country, in a voice of thunder, had said ought not to have been enacted, and which, therefore, now ought to be suffered to sleep—that part which stifles every investigation into the affairs of the Government. It was certainly true, that the existence of this law forbade inquiry into the affairs of the Government, for who (most particularly having those instances in view) would dare scrutinize into the conduct of men in power, when they could apprehend that they should afterwards be handled by a court and jury so unlikely to do impartial justice to them? It must prevent men saying what they think, much less what they know; for, though it might be truth, how could they assure themselves of their own testimony?

What, he asked, had the Government to fear from untruth? The publication of falsehood must carry the evidence of its infamy, and would undoubtedly meet its due appreciation. The characters of public men, in whom the people of this country had been wont to repose confidence, need not shrink at the apprehension of the publication of falsehood. The people would discriminate, and to their own observation it might with safety be confided; for the truth must ultimately be made to appear.

He concluded by expressing his regret that this subject should again be called up to irritate the House. He wished not to have said or heard anything upon so unpopular a subject, but as it had he must inform the Committee that the resolution should have his most decided negative. But, as he had before said, if one was produced containing the principle of re-enacting the other parts of the law, he would give it his support.

Mr. DANA said, a principal part of the arguments of gentlemen in the opposition, were calculated to prove that the Administration of our country was wilfully corrupt. They had told the House that necessary testimony had been refused, and that various abuses of this kind had actually occurred in our courts, which were actuated by a spirit of party, to the great injury of persons not born in this country.

[Mr. NICHOLSON.—I spoke facts: I did not say the Administration was wilfully corrupt—these are the gentleman's own words.]

Mr. DANA.—There could be no other implication from the gentleman's words, nor was it in the power of human invention to distinguish between a violation of the principles of justice in the manner represented, and a most wilful and gross corruption. As it would be extremely improper to leave so great a charge in this unqualified manner, Mr. D. would proceed to examine the conduct of the Judges of the United States. Who are those judges? Nominated by the President of the United States, and chosen by the Senate

agreeably to the Constitution. How long, or at whose pleasure are these judges to continue in their high offices? At the pleasure of no man, nor set of men, but during good behaviour. Surely if there be any part of the Government, or any set of men in the United States, who were placed above the spirit of party, and beyond the reach of corruption, it is the Judges of the United States; and yet, above all others, these are the men charged with a party spirit, and with corrupt principles—these men, who are singled out as men of the most profound wisdom and integrity among us, and who are superior to the dread of removal from office, excepting only by impeachment for misbehaviour. Yet this is the substance of the reasons gentlemen assume why this law should not be continued.

Would not prudence dictate; would not justice, that justice which is due to the character of every man, demand that before these charges would be even suggested, the proof ought to be decisive; that it ought to be "damning?" This has not been produced.

He would not go into the details of the law, but examine it upon general principles. He would admit that there had been much opposition to this law, and that most particularly it had been opposed and condemned by the Legislature of one of the largest States in the Union. But he was not inclined to judge of a measure upon the opinions of others; that House ought not to be overawed by the multitude of petitioners, nor by the remonstrances of the Legislature of any State whatever; it should act with a spirit of independence.

One of the extravagances of that State, and many of the people, had been to arraign, to their extremely weak and partial judgment, the common law; the existence of it was altogether denied. That common law which most undoubtedly secured to every individual its most endeared rights, and afforded security against every species of legal oppression, whilst it preserves to the Government that protection against the licentious and false slanders which polluted some of the presses of the United States, and maintained upon established principles the rights of our jurisprudence and our morality. This was the true character of what was termed the common law.

It would seem to him, Mr. D. said, that no honest man could wish for a liberty to utter defamation and falsehood. It was directly incomprehensible to him how a man who held dear the principles of liberty and of good government, could attempt to utter falsehoods against the Government. The rights of the people and of the press were held up. How, he would ask gentlemen, could the rights of the people require a liberty to utter a falsehood? How could it be right to do wrong? If this was liberty, he had been hitherto totally ignorant of its principles, and wished to remain so. And yet the only crime made by that part of the law so much the subject of complaint, is the uttering of a scandalous and malicious falsehood, with intent to defame. Most certainly truth is not always the motive of investigating

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the measures of our Government, and so far as truth is deviated from, so far is the Government libelled, and virtue proportionately becomes beclouded by misrepresentations. Could not public opinion become corrupted? Could no falsehood be disseminated that would gain credit from the people? Then how could gentlemen pretend to suppose that truth could overcome falsehood? how could they suppose that misrepresentation and calumny could do no manner of harm? How often are calumnies and falsehoods published against the Government; but when is a contradiction of those falsehoods seen in the same paper? No: falsehoods will have their effect, and even if afterwards contradicted, it is not so until the falsehood has had its effect, and at that time the truth avails but little. Thus, though upon general principles, truth may be said to be an antidote to falsehood, truth does not always make its appearance in time to prevent the evil intended by the evil-disposed. Suppose the reputation of the Government to have been attacked, and the affections of the people weaned from it, of what avail will be the remedy? The poison is swallowed beyond the power of expulsion, even by the most powerful antidote. If this, then, be true, and that it is, is indubitable, a check ought to be provided in due time, whilst yet its qualities may completely prevent any possible harm.

And what danger, Mr. D. asked, could result from this law? As he observed before, it was not the will of the judges—those arbitrary party-spirited characters—that could convict. No: every cause is submitted to a jury of twelve honest men, who are sworn to decide upon the fact; and the security is so great that if but one man out of the twelve should be of opinion that the person arraigned is not wilfully an offender, and that he has not traduced the Government falsely and maliciously, he must be acquitted of the indictment. What better barrier to the liberty of an individual can be presented than this? The only answer that gentlemen can give is that the juries are packed. But, he would ask, whether the juries were not returned as fairly in this as in other cases under the laws of the land? If, then, there was an evil, it was not solely applicable to this law, but to all laws, and to the general principles upon which juries were selected. He could scarcely conceive that men of character, under the solemnity of their oath, could act so unprincipled.

Upon the whole he could see nothing but unfounded arguments in opposition to this law, and that gentlemen had no other way to get rid of their dilemma but by charging the courts and juries with corruption. And when men began to charge with evil design the sanctuary of justice, it was time to bid adieu to all public happiness, and every hope to enjoy the blessings of freedom.

Mr. HUGER acknowledged that he had been somewhat surprised, when the report of the Committee of Revisal and Unfinished Business was first made, and found it to be their wish to renew and continue in force this act, so well known by the appel-

lation of the Sedition law. It had been generally understood, he thought, on all hands, that this act would be allowed to expire in peace, and without further notice, on the 3d of March next. As the subject, however, was again brought forward, he was happy to perceive that gentlemen were inclined to treat it with calmness and moderation. There appeared indeed no great anxiety in the Committee to enter largely into the discussion of this question; neither did he feel himself any strong inclination to do so; but as he should in the present instance probably vote in opposition to the sentiments of most of those with whom he was usually in the habit of acting, he would beg leave to state some of the reasons which led him to differ from them on the present occasion. He felt some little pain, however, he acknowledged, at the idea of dissenting from and acting in opposition to his friends on this important and interesting question, because no man had a stronger conviction than himself of the general correctness of their political views and principles, or was more persuaded of their honest intentions and patriotic views.

Mr. H. said he would not enter into an investigation of the constitutionality or unconstitutionality of this law. The gentlemen who preceded him had not done it, and it would become him less to do so; for, although it was true, he had never given it the sanction of his vote, yet if he felt any doubt as to the constitutionality of this law, it would certainly come with a very ill grace from him to urge them at this late day, and in the present state of things.

Waiving, then, the question of constitutionality, Mr. H. called upon gentlemen to show the expediency or necessity of renewing this act, and continuing it longer in force. For his part, he had heard nothing, nor could he see any reason, which led him to think such a measure either expedient or necessary at the present moment. Granting that Congress possessed the Constitutional power of laying some restrictions on the licentiousness of the press, and of punishing libels, yet it certainly does not follow of course, that they must necessarily, at all times and on all occasions, carry that power into operation. In time of imminent danger; in the midst of a great crisis, it might be proper to avail ourselves of such a power. And such indeed was the state of things when this law was originally enacted. Our country was at that time threatened with foreign, and perhaps domestic war. We had to guard against the machinations of an artful and well-disciplined foe, who was endeavoring to rouse up our citizens against the Government, and would, no doubt, have availed themselves of every possible means to mislead the public mind, and to spread abroad falsehoods, which might have had the most direful and fatal effects, before it was possible to detect and expose them. At that time, and in the then state of things, he was one of those who was for exerting every nerve, and bringing into operation every means in our power to defeat the schemes of our enemies, and repel the impending danger. Taking it, there-

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fore, as one of the measures adopted at that awful period, and regarding it as a part of the general system of defence then deemed necessary, he had always been inclined to view it with a favorable and partial eye, but the state of things was now actually changed. The smiles of peace had again visited our shores, and a convention had lately been concluded, which he trusted would finally put an end to all our dissensions with the French nation. Why then renew or continue longer the provisions of this act, when the storm which gave rise to them is blown over?

There was another point of view in which the subject presented itself to Mr. H., and which would greatly influence his vote upon the present occasion. Without going so far as to assert with some gentlemen, that nine-tenths or even two-thirds of our citizens had declared themselves decidedly opposed and hostile to this act, he would venture to say, without any fear of being contradicted, that there certainly was a very great difference of opinion, and contrariety of sentiment, both as to the constitutionality and policy of the measure. As little noise has been made with respect to this law in the State he had the honor of representing, as in perhaps any part of the Union; yet it certainly had occasioned some uneasiness in the public mind even there; and he was convinced the great majority of his constituents would not willingly see it again renewed at the present time. He would venture even to go so far as to say, that the freedom of speech and of the press, though carried even to a certain degree of licentiousness, was in general deemed preferable by them to anything like an appearance of restraint on either. Their good sense might lead them to acquiesce in, and perhaps even approve of temporary restrictions in the moment of impending danger, but such restrictions even then would be unpleasant and distressing to their feelings, and excite all their jealousies; nor would they easily reconcile themselves to anything of the kind in peaceful and common times.

It had been argued that no Government depended so much upon public opinion as our own, and it was consequently necessary to continue these restrictions at all times, as a safeguard against misrepresentation and falsehood. He could not, however, acquiesce in this conclusion; during the eight years of the Administration of that great man, who bore so conspicuous a part in forming and carrying into operation the present Constitution, as well as during the first two years of the present Administration, the Government had progressed and prospered, without the aid of any such law. And if the crisis of the moment had two years since called forth an expedient of this kind, it was now at an end, and he saw no reason why we should not allow things to revert to their ancient channel. He was willing, indeed, to admit that some inconveniences, some mischiefs even did occasionally arise from the unprincipled and unbridled licentiousness of the press. He had had but too much reason to lament the truth of this fact. In the present political state of society, however, these evils, he was inclined to believe,

were far more than counterbalanced by the advantages which we reaped from the entire freedom of speech and of the press. He was content, therefore, to take the good with its concomitant evil. For so nice and delicate were the shades of distinction between the licentiousness of the press, and a necessary freedom of discussion, that it was upon the whole better perhaps, in times like the present, when the thing would probably work its own cure, to leave the measures of Government and its Administration entirely open to investigation and animadversion, without attempting to repress the eccentricities and exuberances of public discussion by even an ideal restraint.

Mr. H. begged leave to make one other observation before he sat down. It was evident to all that a change of men was about to take place. It was equally well known, that those who were about to enter into the administration of the Government, had on all occasions declared themselves openly and unequivocally hostile to the principles of this act. It was no doubt honorable in those gentlemen who had heretofore supported this measure, to show their willingness to continue and submit to it, in a change of circumstances, which might enable their political opponents to turn it against themselves. But with what appearance of consistency, with what propriety, upon what principle, could these gentlemen avail themselves of the provisions of this law. To him it appeared impossible, that they could act under it. If renewed, then, it must remain a dead letter. And why load your statute book with laws, which could not be carried into execution, and would of course answer no end.

Upon the whole, the motion appeared to him ill-timed. The measure, it was admitted on all sides, had occasioned much difference of opinion, and considerable uneasiness in the public mind. The state of things which originally gave rise to it, was at an end, and there appeared to be no circumstance which rendered it peculiarly necessary or expedient to continue the law longer in force. All restrictions of this kind were discordant and uncongenial to the American feelings and wishes; and even if the law should be continued in our statute book, it would, according to all human probability, not be acted upon. Under these impressions, and in this view of the subject, he could have wished the present motion had not been made, but, at all events, he felt himself bound to give it his negative.

Mr. CLAIBORNE made a short reply to some observations which had fallen from Mr. HARPER. Mr. C. said, that spirit which the gentleman from South Carolina dreaded, he highly venerated; that fanaticism against which the gentleman so much declaimed, was the will of the people, and their voice could alone be terrible to the satellites of despotism. It was that voice which had heretofore broken the fetters of our transatlantic subjection, and will never suffer political chains to be forged for our country, either by foreign or domestic tyrants. Mr. C. believed that the sentiments of the American citizens were much averse

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to the law under consideration; they viewed it as an arbitrary and oppressive act, dangerous to their freedom and happiness, and during its existence the public mind would never be tranquil.

Mr. C. declined an examination into the constitutionality of the law in question. He waived this inquiry, because this point had been so frequently and ably discussed that it was not in his power to introduce any new argument. He would say, however, that the measure had always been viewed by him as a violent outrage upon the great charter of American rights—the Constitution—and from this and other causes had arisen his former opinion. Mr. C. was of opinion that the revival of the Sedition act was highly inexpedient. It would be remembered, that for eight years after the organization of this Government, the powers vested in the different Departments were exercised without the aid of a sedition act. That great character who was then at the head of the Government asked no such shield, and required no such protection. To calumny he opposed virtue and integrity, and, thus fortified, the shafts of calumniators can inflict no wound.

Mr. C. remarked that the conduct of our public men should always be investigated; that free investigation was inseparable from a representative Government, and essential to its preservation; that in such investigation base men might resort to calumny, but this was an evil which could not be remedied without rendering insecure a valuable privilege. Mr. C. anticipated no good that could flow from this act, but, on the contrary, he apprehended much mischief.

If an Administration is honest and wise, it needs not the support of this law, but its existence may do such Administration immense injury. Awed by the fear of punishment, the labor of calumniators will be veiled in secrecy, and the operations of detraction will be so private that a detection will be difficult, and truth and virtue may thus be assailed with success. But repeal this act, lay no restraint upon inquiry, and then political investigation of every description will come boldly out, error may be met by truth and calumny by virtue.

Mr. NICHOLAS, in a speech of some length, opposed the resolution.

Mr. RUTLEDGE had not intended to have raised his voice on the present occasion, nor should he now trouble the Committee, if it was not for the purpose of giving correction to some misstatements which had been made by the honorable gentleman from Maryland, (Mr. NICHOLSON.) In recapitulating the evils and mischiefs which had resulted from the Sedition law, he had mentioned as facts some of the tales of detraction and falsehood which had been very generally circulated, and which, owing to popular delusion and credulity, had been very generally believed.

The first in order was a pathetic history of a printer, who, as we are told, was a martyr to this law, and pursued under it to death. Mr. R. had often heard and read of the case of Adams, the printer, who, it was stated in most of our public prints, as it was this day stated by the member from Maryland, had been prosecuted under the

Sedition act, thrown into a sickly dungeon, where, loaded with chains, he had died. In the course of the last Summer, I happened to be in Boston, and, after inquiring about the business, learned the following facts: that a printer, of the name of Adams, had been prosecuted at common law, in the State courts of Massachusetts, for a libel against the Senate of that Commonwealth, and died some time after he was released from jail. So that the Sedition law had nothing to do with this case. The proceedings were under a State law and in a State court, and the story which the gentleman from Maryland believed to be a fact, and which had been mentioned as one in many of our papers, turns out, upon investigation, to be a fiction—a mere opposition trick, practised for the purpose of injuring the Government. He had given to the Committee the history he received at Boston of this transaction, but his friend near him, who is the representative of that city, had just now interrupted him to say the latter part of the narrative was incorrect, for the printer is still living; so that the victim we just now saw in a foul dungeon, loaded with chains and dead, it now appears is alive. Thus much for the history of the printer. After having been told of his prosecution under the Sedition law and dying in jail, we were reminded of the hard sufferings of a member of this House—the respect due to all its members forbids making comments upon this case. The trial of Cooper, at Philadelphia, was adverted to by the gentleman, (Mr. NICHOLSON,) who had made an implicit charge of cruelty on the Judge for having refused leave for taking the testimony of the President of the United States. What motives governed the decision of the Bench he could not say; but many very strong reasons present themselves why the request ought to have been resisted, and why the Chief Magistrate should not be drawn from place to place as a witness in courts of law. In the case of Cooper, it was believed at the time, and afterwards known, that his object in soliciting the attendance of the President was merely to perplex the court and induce a postponement of his trial. This was proved by his conduct to many of this House—so many of them had been summoned by him as witnesses, that Congress was obliged to adjourn to enable them to attend the court, where, after remaining from ten to three o'clock, they were told, upon the Judge's promising to have them sworn, that they would not be wanted. This was the conduct of Mr. Cooper, whose trial he attended, and which he could say with great confidence, as many members who now heard him also attended, was one of the fairest and most deliberate that ever was had. As the gentleman from Maryland had been mistaken in his facts, Mr. R. deemed it important to correct his misstatements, inasmuch as it is highly desirable to keep the public proceedings correct, and to undeceive the people of errors into which they have been led by the tales of rumor. In Governments like ours, where all political power is derived from the people, and whose foundations are laid in public opinion, it is essential that the people be truly informed of the pro-

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ceedings, the motives, and views of their constituted authorities. It is the duty of the latter to keep in a state of purity the channels of public information, and to make liable to exemplary punishments malicious persons, who, by wantonly disseminating unfounded suspicions, impose upon the understandings, inflame the passions, and mislead the judgments of their fellow-citizens. In a Republican Government, where public opinion rules everything, it is all-important that truth should be the basis of public information. Government, which is the preservative of the general happiness and safety, cannot be secure if falsehood and malice are suffered to rob it of the confidence and affection of the people.

Although my sole motive for rising, said Mr. R., was to correct the misstatements of the gentleman who had preceded me, yet, as I am up, I will trouble the Committee with a few remarks upon the observations which have been heard from the other side of the House.

The member from Kentucky, (Mr. DAVIS,) in a speech in which more acrimony was exhibited than he usually displayed, had painted in very vivid colors the evils to be entailed upon us by the re-enacting of this law; but, after recapitulating them, had concluded with saying "he had nothing to fear from it, because he was an honest man." If, sir, honest men have nothing to apprehend from this measure, whence all this clamor against it, and wherefore all this fear and horror? Why sound the tocsin, and why agitate the country, when honest men have nothing to fear? If this law, which subjects men to a punishment who publish false, scandalous, and malicious writings against the Government, with intent to defame and to bring it into disrepute; and men who stir up sedition and excite unlawful combinations in the United States; and men who encourage the hostile designs of a foreign nation; I say, if a law which constitutes these things crimes, and which gives to the accused a trial by jury, and gives him the privilege of giving in evidence the proofs of the matter contained in the libel; if such a law cannot, in the opinion of those who oppose it, produce inconvenience to honest men, I cannot believe that gentlemen are very much in earnest who so warmly deprecate its renewal—the renewal of a law under which no man can suffer who is not convicted, by a jury, of the intention to disturb the public repose. The member from Kentucky had again introduced his favorite figure, and told us the sun of Federalism would shortly go down; he had added that quite a new order of things would be introduced, and said, triumphantly, everything will be burnt up, and we will begin again anew. Sir, the sun of Federalism will not decline; in spite of the whimsies of reforms, our Federal fabric shall endure; although its structure may seem rude and Gothic to theoretical and experimental gentlemen, the great body of our citizens will cherish and support it. In stormy and tempestuous times it has sheltered their property and protected their independence, and they will suffer no rude hands to violate it. Our Federal fabric will not be dissolved, sir; and I trust

we shall tenant it with a practical gentleman who will have judgment, taste, and genius enough to appreciate its integrity. Of the threatened conflagration and new order of things, I am not afraid. During the rage in this country of the Gallic mania, the friends of the Government had much cause for apprehension; but, thank God, sir, the season has passed away, and the people of America will profit by the awful and mournful lessons they read in the modern history of Europe; they will firmly resist the adoption here of theories, the practice of which in other countries, under the imposing names of reform and improvement, have produced subversion and ruin.

Respecting the constitutionality of this law, I will only observe that our Judiciary (and they are the only appropriate judges of its constitutionality) have decided, and repeatedly decided, that it was Constitutional. An honorable gentleman from Virginia has told us that a more high and respectable tribunal—the people—had declared it unconstitutional. Sir, I am not so good a Democrat, nor so diffident of myself, as to have recourse to the people on the passage of every law to inquire of them if it be Constitutional. As a legislator, it is sufficient for me that, with the best understanding I can obtain of the Constitution, I take care not to violate it, and to know that, if, through error of judgment, I travel beyond the sphere of the Constitution, my errors will immediately be checked by a mound and barrier which cannot be overleaped. If any proceeding of the Legislature be unconstitutional, I have the consolation of knowing the Judiciary will declare it so; and to the decisions of our venerable and profoundly learned Judges I look up for information whenever the constitutionality of a law is questioned, and not to the resolutions of popular and tumultuous meetings. If, upon every Constitutional doubt, we are to have recourse to the people, there is an end to representative Government.

We have been told that this law was odious to the people, and that they had declared their execration of it. Sir, the truth of this position seems to me more than problematical. I will never estimate the sentiments of the American people by the opinions expressed in some sections of the people; as a representative of the whole, I am not to be governed by the will of a part; and the discontent displayed in Virginia, Pennsylvania, and Kentucky, cannot convince me that the people throughout the United States were discontented with this law. The truth is, sir, that in those sections of our country where clamors have been raised against this law, everything is disliked and everything is abused which emanates from the Federal Government.

But, respecting this law, we have evidence of its not being disliked by the people generally. I refer to the calls made by the Legislatures of Virginia and Kentucky on those of all the States respectively, for reprobation of this law, and to all of them having refused or neglected to do so. I regret that this law is odious to the people of Virginia. I would wish that every act of the Gov-

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ernment was approved by every citizen of the country, if such a thing were possible; but I know this to be impossible in a free Government. I am too well acquainted, sir, with the character of man, to expect unity of sentiment among the people of this country respecting the conduct of a Government under which every man has the privilege of expressing unreservedly whatever he thinks on political subjects. As reasonably may we expect the same capacity of intellect from every man in the community, as that all men in it should think alike on any one political subject. A diversity of sentiments among men is incidental to our nature, and expressing this difference of opinion is an illustration of our political freedom. If any honorable member of this House supposes the people are contented in those countries where no popular murmurings are heard, he deceives himself; theirs is the silence of the grave, and they are silent because they have not the power of complaining.

We have been told by the gentleman before me, from Maryland, that a virtuous Administration had nothing to fear from slander and falsehood; that if things said are not true, the saying of them cannot injure. Can this, sir, be his deliberate opinion? Is he justifiable, with his knowledge of the world, in making this assertion? Does he not know that virtue does not form an impenetrable shield against the arrows of slander? He must know that calumny is too subtle to be warded off by the mantle of innocence. He must know that continued defamation will at length sully the fairest reputation, and throw suspicion on the purest conduct. I say, the gentleman must know these things; he knows it from the experience of the world; he knows it also from his own experience, as a member of the learned profession; he knows that actions for slander are brought and sustained in our State courts at every term. Would he say to a client who had been robbed of the fairest heritage of man—his good name; whose head had been pillowed with thorns, and whom foul calumny had stretched on the bed of torture—would he say to him, if you are innocent of these charges they will not be believed—the innocence of a mind conscious of its own rectitude will blunt and render harmless the arrows of slander; will make them recoil on the calumniator? No, sir, this would not be his language nor his conduct, but he would make high demands of indemnification for the injury done to his constituent, in attempting to deprive him of his good name, the loss of which makes man poor indeed. I know that such would be his course of conduct; for the high value he places on the high reputation he very deservedly sustains, would make him pursue this course. His veneration for the liberty of the press would not make him tolerate its licentiousness. He knows this demands a correction wherever they have presses, but more than anywhere else under a Government so peculiarly constructed as ours is, and where, if calumnies are unrestrained, they will produce convulsions which will not only be injurious to its prosperity, but destructive of its existence.

In answer to what has been repeatedly said about the discontents of the people, I again say, that for myself I am not displeased by the ebullitions of discontent which are occasionally displayed in some sections of our country; for I regard them as high evidence of the freedom of my country, where any man who is dissatisfied with any of the acts of the Government may unreservedly express his disapprobation, knowing there is none to make him afraid, if he employs the language of truth, or publishes what he believes to be truth.

Mr. NICHOLSON explained—He trusted no gentleman would suppose the history of Adams, the printer, to be intentionally misstated by him. That his relation of it might not be erroneous, he did not say. The gentleman himself it appeared was under the very some mistake—he acknowledged to have seen the circumstance in the newspapers as related, and to have believed it, until by a more intimate inquiry, when the opportunity offered to him, he was undeceived. He therefore could not blame those who had not had the opportunity of seeing it contradicted. Besides this misinformation, the gentleman thought the man was dead, until informed otherwise by a gentleman by his side.

As to the case of Mr. Cooper, the gentleman from South Carolina corroborated the observation, Mr. NICHOLSON said, made by him. He agreed that the testimony of the President was refused, but did not draw the same inferences. He thought it right but I conceive it otherwise. Mr. Cooper was charged with having declared that the President in his answers to addresses had said such and such things. He was told that he must not rely on this as testimony. [Mr. HARPER denied the truth of this.] Mr. NICHOLSON said it certainly was refused in the first instance, though afterwards it might have been permitted to be read to the jury, but not as due testimony. Upon this he thought it proper to call for the testimony of the President himself, which was refused, upon the ground of impropriety.

Mr. HARPER said: As a great part, Mr. Chairman, of what I have to offer to the Committee on this question is connected with the statement of abuses, which gentlemen who oppose the continuation of this law tell us have been committed in the course of its execution, I have chosen to offer it at this stage of the debate, in order that the correction of the errors with which those statements abound, may go forth with the errors themselves.

The objections of gentlemen, sir, to the continuation of this law, have been directed, as usual, against its constitutionality and its expediency. Those against its expediency are reducible, so far as I have been able to understand them, to some instances of oppression, which gentlemen say have taken place under the law. In what did this oppression consist? If I understand gentlemen aright, they stated it to consist in the denial to persons who had been indicted under the law, of the proper time means and opportunity of making their defence. The objections have been variously

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and very indistinctly expressed, but, as far as I was able to understand them, this was their full amount.

Let us, then, Mr. Chairman, examine the cases which have been adduced as instances of this oppression. Let us inquire whether they afford any foundation for the imputations which have been made on the conduct of the courts?

The first case is that which occurred in Philadelphia last year.* In this case, we are told, the party was denied the means of making his defence; was prevented from adducing the testimony by which the truth of the publication for which he was indicted, might have been proved. Fortunately, sir, there are many now present, many honorable members of this House, who were present at the trial, and can bear testimony to the manner in which it was conducted. They can testify that the party was allowed all the indulgence that he asked for, was permitted to carry before the jury all the evidence he chose to adduce.

In the first place he summoned several members of Congress to attend as witnesses in his behalf. I myself was summoned. An honorable member from Pennsylvania who sits near me, (Mr. GALLATIN,) was also summoned; and I see several other honorable members in their places who were included in the summons. It happened that we were prevented from going into court as soon as we had intended, but we did so; and when we entered the court, we found the party preparing an affidavit, or prepared with one, and holding it in his hand, in which our testimony was stated to be material in his defence; and, as our absence was alleged as a ground for postponing the trial went on. Why were we summoned, sir? Nobody present was ignorant of the purpose. It was a mere trick to postpone the trial, and so universally understood. We were summoned in the expectation and belief that we would not attend. In that case our absence would have been alleged as a cause of postponement, and there was no difficulty about swearing that our testimony was material. If the trial had been postponed on this ground, the point would have been gained, and justice eluded; and if the court had refused to postpone it, the opportunity which had been sought, of abusing the court, and raising an outcry about the denial of justice, would have been afforded. Will anybody deny this statement? No, sir, nobody will presume to deny it. The truth flashed on all who were within the verge of the court. None were so blind as not to see the artifice; none were so shameless as not to blush at it. Even the spirit of party was reduced to silence and the most hardened votaries of faction hung down their heads, and were confounded at the detection. How, sir, did the detection take place? How was the design rendered thus apparent? The witnesses thus summoned with parade, thus called from their seats in the National Legislature to give evidence of the trial; the witnesses whose absence, when it was hoped and be-

lieved that they had declined attending, was about to be made the ground of an application on oath for a postponement of the case, whose testimony was about to be stated on oath to be material to the defence; these witnesses, when they did come, were not examined. They remained in court during the whole of the trial. The party was informed of their being present, and when he had gone through all his other testimony, was expressly asked by the court if he wished to examine them, and he said, no. They were not examined. Lest it should be said that through fatigue arising from the length of the trial, he had become unable to examine them, the court informed him that if he wished for time to refresh himself, there should be an adjournment of an hour or two for that purpose, but this indulgence he rejected, and still declined to examine these witnesses. Thus the purpose for which they had been summoned was disclosed, and it became manifest to all, even those most unwilling to see, that their being called on was a mere trick, which their unexpected appearance had defeated.

But we are told, sir, that this person was refused the opportunity of producing other testimony. What testimony? That of the President of the United States. And do gentlemen seriously contend that the President of the United States is liable to be called from the seat of Government, where his high and important functions always require him to be, in order to travel up and down the United States as a witness on trials? If he may be summoned to attend one, he may be summoned to attend another; if he must go as witness into the courts of Pennsylvania, he must, on the same principle, go as a witness into those of New Hampshire or Georgia. Can gentlemen be serious in contending for such a principle? No, sir, they are not serious; they cannot be serious; and I am firmly persuaded that the honorable gentleman from Maryland (Mr. NICHOLSON,) who has expressly contended for it, would, *mutatis mutandis*, be one of the first to discern and expose its absurdity.

The President, moreover, was called on in this case to criminate himself—which the best-established rules of law protect every person from being compelled to do. The party was indicted for a false, scandalous, and malicious libel on the President, whom he had accused of many atrocious acts. He pleaded the truth of the matter in justification, and wished to bring the President as a witness to criminate himself by proving their result. This is forbidden by the positive rule of law, revived and admitted in every day's practice. What would be the consequence of admitting it with respect to the President? A profligate fellow would have nothing to do but to accuse him in print of a crime, and when indicted for it, harass his person and degrade his office and character, by examining him in a court of justice, as to the commission of that crime, and thus compelling him to give an account of his whole private conduct and public administration. This is the principle for which gentlemen contend.

But there was other testimony, we are told by

*The case of Cooper.

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gentlemen, which this person was denied permission to adduce? What other testimony? Certain publications extracted from newspapers, and purporting to be answers of the President to various addresses. Was he prevented from adducing them? No. He was, on the contrary, permitted to adduce them, and did in fact adduce them. He was, indeed, told by the court, and most truly told, that these extracts from newspapers were not legal evidence; but that, under the particular accusations of the case, he should be allowed to give them in evidence. He was told that he might read in evidence whatever he thought proper. He availed himself of this permission in its full extent. He read those extracts in evidence. Indeed, the greater part of his defence, which lasted for nearly three hours, consisted in reading and commenting on the President's answers to addresses.

Will any one deny this fact, sir? No; it will not be denied. It cannot be denied. It took place in the presence of many witnesses—of many who now hear me—and proves incontestably, that greater latitude of indulgence could not possibly be given in making a defence, than was given to this person. And yet, sir, this is one of the instances adduced of oppression, of denial of justice, under the Sedition act.

The next instance is brought from Boston. We are told a melancholy story, decorated with all the graces of the pathetic, about a poor innocent printer in Boston, who was indicted under this law for a libel on the Federal Government, convicted, imprisoned, and at length sunk under the cold and dreary dampness of a dungeon, and yielded up his life a victim to the tyranny of the Sedition act. This dismal tale, sir, thus piteously told, is found to be completely destitute of truth in all its parts. This poor wretch, whose life fell a sacrifice to the rigors of imprisonment under the Sedition act, turns out to be still alive and in health. He is found to have been indicted in a State court, under a State law, and for a libel on the State government. By a most singular infelicity of exactness, the fact appears, in every point, to be precisely the reverse of the story.

The last instance is brought from Richmond. There, too, according to gentlemen, a person indicted under this act, was denied the opportunity of producing evidence in support of his justification. Let it be recollected, Mr. Chairman, that this person was indicted for a libel† so atrocious, that no person, except its author, has yet been found profligate enough to defend or even to quote it. A libel, not on the administration merely of this Government, or on the Government itself, but on the nation, the Constitution, our independence, the war of our Revolution, the patriots who conducted it, the character of our people and country, and on the American name. A libel on every person and thing that is American, except one individual, whom alone it dishonors by its praise; whom it disgraces as far as disgrace can be inflicted by the commendation of the wicked; whom

it places alone on that bad eminence, where not even a generous enemy could wish to see him stand. A libel, sir, which has made its supporters blush; which they have sedulously endeavored to suppress, lest it should dishonor the cause which it was intended to defend; which they have made to shun the light, and passed secretly from hand to hand, lest it should produce repulsion in the minds of those whom it was their wish to seduce. This, sir, was the libel for which the person in question was indicted, and which he had the effrontery to say that he wished to prove, by the testimony of honorable men. He wished to call men of character into court, and insult them by asking them on their oaths, whether "The Prospect before us" was true. Is there one man on earth, sir, profligate and hardened enough to say that he believes it? Would the gentlemen whom he pretended that it was his wish to summon, have appeared in court, and said they believed what the book contained? No, sir. One of them was in Richmond, and was summoned. He, sir, is a man of honorable feelings, of a manly character, whose political prejudices and party animosities, strong as they are, never betrayed him into a mean, a little paltry action. He was summoned, and what did he answer? "Let the scoundrel run away, and I will pay his recognisance; but as to appearing for him in court, that would be too much." This is said to have been his answer; and, whether he gave it or not, certain it is he did not attend. The other persons proposed to be summoned were within reach, and might have been had. What did the court say? "You shall have a continuance till next term, if you entitle yourself to it according to the rules of law, by disclosing to the court, on affidavit, the matter which you expect to prove by these witnesses, and showing that it is material. Even without complying with these terms, you will have a postponement from day to day, in order to procure your witnesses, as long as the time allowed for the sitting of the court will admit." But of this indulgence no use was made. No effort was made to procure the witnesses during the sitting of the court. That was not the object. The object was to postpone the trial till the next court, under the pretence of the absence of witnesses; and the court recollecting the Philadelphia case, where an attempt was made to practice a similar trick, were on their guard, and very properly resolved to defeat it. They resolved to bring on the trial, unless proper and legal grounds for a continuance should be shown. As this could not be done, the trial was brought on, and the party convicted by an honest, responsible, and independent jury.

So much, Mr. Chairman, for the oppressions exercised under this law, and for the objections to its expediency.

As to the question of constitutionality, it has been waived by gentlemen, very properly in my opinion; and I certainly shall not enter into it.

The constitutionality of the law has been, on many former occasions, triumphantly established by arguments to which not even the semblance of an answer has been given. Indeed, sir, I have

† The Prospect Before Us.

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never so lowly appreciated the understandings of those who have clamored about the unconstitutionality of this act, as to suppose that they themselves believed in their objections. I have ever considered those objections merely as instruments for working on the public mind, as party expedients for exciting discontent against those in power and paving the way for their dismissal. I have ever considered the constitutionality of the Sedition act as a mere stalking-horse, behind which to fight the Administration. I believe that it has always been so considered by those who have used it; by those who have most gladly grasped, and most industriously wielded, a weapon whereby they hoped to demolish the power of their political adversaries, and open the way for their own. Hence, sir, and hence alone, the odious epithets which have been heaped upon it, and the tales fabricated about oppressions exercised in the course of its execution. Hence the charge that Congress had no power to make a provision, which rests on the same principle whereon are founded nearly one third of the laws in our code; and which cannot be distinguished, and has never been attempted to be distinguished, from the first section of the same act—the section against seditious meetings—about the constitutionality of which a doubt has never been raised.

We are told, sir, that the people have condemned this act; that the people, as one gentleman has eloquently expressed it, “have declared their disapprobation in a voice of thunder.” Sir, gentlemen deceived themselves. They have indeed thought this reason a good one, and have proved that they thought so by the industry wherewith they have used it. But they greatly overrate its effects, which they measure by the erring standard of their own zeal. Let it be remembered, that this act was passed in the Spring of 1798; and in the Summer and Autumn of that year, and the Spring of the next, when the clamor against this law was fresh and high, the American nation was called upon to express, by a general election, its sense of the conduct of its Representatives. Let it be remembered, that the persons who were instrumental in passing this law, never received higher or more general proofs of the approbation and confidence of their country, than in this election. A change, gentlemen say, has since happened. If this change be anything more than apparent, or at most a temporary fluctuation in popular sentiment, it is owing to far other causes than the Sedition act; causes which need not now be discussed. Suffice it to say, that this act has received the highest and most repeated proofs of approbation on the part of the American nation; and that industriously as the clamor against it has been excited and kept up, that clamor has not been extended beyond certain parts of the country.

We are called on, sir, for the reasons why this act should now be continued. I will give my reasons most freely. Whether they be the same with those which actuate the conduct of other gentlemen, I know not; but in my mind they deserve all consideration. I wish to revive this law, sir, as a shield for the liberty of the press and the

freedom of opinion; as a protection to myself and those with whom I have the happiness and the honor to think on public affairs, should we at any future time be forced, by the imbecility or the mistakes of any future Administration in this country, to commence an opposition against it; not a factious, profligate, and unprincipled opposition, founded on falsehood and misrepresentation, and catching at the passions and the prejudices of the moment; but a manly, dignified, candid and patriotic opposition, addressed to the good sense and virtue of the nation, and resting on the basis of argument and truth. Should that time ever arrive, as it may arrive, though I earnestly pray that it may not, I wish to have this law which allows the truth to be given in evidence on indictments for libels, I wish to have this law as a shield. When indicted myself, for calmly and candidly exposing the errors of Government and the incapacity of those who govern, I wish to be enabled, by this law, to go before a jury of my country, and say that what I have written is true. I wish to interpose this law between the freedom of discussion and the overbearing sway of that tyrannical spirit, by which a certain political party in this country is actuated; that spirit which, arrogating to itself to speak in the name of the people, like fanaticism arrogating to itself to speak in the name of God, knows neither moderation, mercy, nor justice; regards neither feeling, principle nor right; and sweeps down, with relentless fury, all that dares to detect its follies, oppose its progress, or resist its domination. It is my knowledge of this spirit, sir, of its frantic excesses, its unfeeling tyranny, and its intolerable revenge, that makes me anxious to raise this one mound between its fury and public liberty; to put into the hands of free discussion, one shield against its darts. This shield, I have little doubt, will at length, and perhaps very soon, be torn away; for the spirit of which I speak, goaded by conscious inferiority, stimulated to madness by the envy of superior talents, reputation, and virtue, knows to brook, no check upon its rise, no censure upon its excess. But I will not sanction my own death by my own voice. I will not yield one barrier to freedom and the right to opinion, while I can defend it. I regard this law as such a barrier, feeble perhaps, indeed, and ineffectual to check the progress of that tyrannical spirit which even now can scarce restrain its rage; but though feeble, yet dear to freedom, and never to be abandoned by freedom's friends. And in order to keep up this barrier to the last, I shall now, while I may, vote for the continuance of that law, which mitigates the rigor of the common law in this respect, and protects the liberty of the press and of opinion, by enacting that the truth may be given in evidence on indictment for libels against the Government.

THURSDAY, January 22.

On motion, it was *Resolved*, That a committee be appointed to inquire into the expediency of making further provision to prevent the concealing or harboring of slaves escaping from one State

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to another, and to and from the Territories of the United States; and that the said committee be authorized to report by bill, or otherwise.

Ordered, That Mr. NICHOLSON, Mr. RUTLEDGE, Mr. MACON, Mr. CRAIK, and Mr. PARKER, be appointed a committee pursuant to the said resolution.

Mr. HENRY LEE, from the committee appointed, presented a bill to provide for the better establishment of the post roads of the United States.

On motion, it was *Resolved*, That Mr. RUTLEDGE, Mr. NICHOLAS, Mr. GRISWOLD, Mr. MACON, and Mr. BAYARD, be appointed a committee on the part of this House, to join such committee as may be appointed on the part of the Senate, to ascertain and report a mode of examining the votes for President and Vice President, and of notifying the persons who shall be elected of their election; and to regulate the time, place, and manner of administering the oath of office to the President.

AMENDMENTS TO THE CONSTITUTION.

Mr. NICHOLAS, from the committee to whom was referred, on the twenty-first of November last, a motion for amending the Constitution of the United States, made a report; which was read, and ordered to be committed to a Committee of the whole House on Monday next. The report is as follows:

Resolved by the Senate and House of Representatives of the United States, (two-thirds of both Houses concurring,) That the following articles be proposed to the Legislatures of the several States, as amendments to the Constitution of the United States:

"1. That, after the third day of March, in the year one thousand eight hundred and one, the choice of electors of President and Vice President shall be made by dividing each State into a number of districts, equal to the number of electors to be chosen in such State, and by the persons in each of those districts, who shall have the qualifications requisite for electors of the most numerous branch of the Legislature of such State, choosing one elector in the manner which the Legislature thereof shall prescribe.

"2. That the election of Representative to Congress, who are to serve after the third day of March, in the year one thousand eight hundred and three, shall be by dividing each State into a number of districts, equal to the number of Representatives to which such State shall be entitled, and by the people within each of those districts who shall have the qualifications requisite for electors of the most numerous branch of the Legislature of such State choosing one Representative in the manner which the Legislature thereof shall prescribe."

The committee, to whom were referred the foregoing resolutions, have had the same under their consideration, and, as the result of that consideration, beg leave to make the following report:

It is conceived that it may be assumed as one of the most indisputable maxims of American policy, that no change in the Constitution of the United States be admitted without a well-grounded assurance of the attainment of some greater good under the proposed change than under the existing provisions of the Constitution.

In relation to the object of the first of the aforesaid resolutions, the existing provisions of the Constitution of the United States are expressed in the following terms:

"Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

"The electors shall meet in their respective States, and vote, by ballot, for two persons, of whom one at least shall not be an inhabitant of the same State with themselves; and they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit, sealed, to the seat of Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such a majority, and have an equal number of votes, then the House of Representatives shall immediately choose, by ballot, one of them for President; and if no person have a majority, then, from the five highest on the list, the said House shall, in like manner, choose the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice President. But if there should remain two or more who have equal votes, the Senate shall choose from them, by ballot, the Vice President.

"The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States."

Under the latitude of expression used in the foregoing provisions, considerable variety of practice has been found to prevail, not only in the different States, but at different periods in the same States. The modes adopted may be considered as capable of designation under two general descriptions: the one an appointment of electors by popular vote; the other, an appointment of electors by legislative choice.

In each mode considerable varieties have prevailed. Under the first general mode, the States have been sometimes divided into districts, in proportion to the number of electors to be appointed in each State respectively; and the inhabitants of each district, having the right of suffrage, have appointed, by vote, the elector for such district, respectively, nearly in the manner proposed by the first resolution referred to your committee. In other instances, the whole people of a State, having the right of suffrage, have appointed, by general vote, such number of electors as the State was respectively entitled to. The electors appointed under the latter modification have been sometimes taken from the body of the people at large, in other instances, they have been selected from certain districts or divisions of the State, in conformity with certain previous legislative

requisitions. In cases of death, absence, or other disability of electors appointed by popular vote, provisions have been made by law, in the same States, to supply the vacancies which might be occasioned by such accidents, by means of a legislative choice.

Under the other general mode of appointment, the electors in some States have been appointed by a joint ballot of both Houses of the Legislature. In some instances, the electors appointed by legislative choice have been taken from the body of the people at large without previous limitation; in other instances, from a restricted list, nominated in certain proportions by each House of the Legislature, respectively.

In the same States one general mode of appointment has prevailed at one time, and another general mode at another time; the changes having been made as well from one general mode as from the other.

Such are the existing provisions of the Constitution of the United States, and such has been the practice under these provisions. The modes thus used are presumed to have been within the legitimate construction of the Constitution, since the votes of electors appointed under almost every variety of these modes have been admitted in former elections of President and Vice President of the United States. The latitude of expression used in those provisions, and the variety of modes practically adopted under them, seem to have been considered in the first of the resolutions referred to your committee as inconveniences which ought to be remedied.

Your committee are persuaded that the provisions of the Constitution of the United States can, in no instance, be reasonably considered as mere pleonasm or inadvertencies; and, therefore, that the particular phraseology used on the above subject, was not adopted without due consideration. Your committee are equally persuaded that the varieties which have practically taken place under the terms used, are not beyond the contemplation of those who framed the Constitution. These varieties, it is reasonable to suppose, were foreseen, and, being foreseen, were viewed not without favor, as the best means of enabling the people of the United States to combine the advantages of experience with the speculations of theory in relation to this acknowledgedly the most difficult part of their Government in the adjustment, so that they may ultimately settle down into one uniform mode within Constitutional limits, not from Constitutional restriction, but from the convictions of reason founded on experience.

The mode proposed to be exclusively established being clearly within the expressions of the Constitution, if upon experience and comparison with other modes, equally within those expressions, it shall be found to possess superior advantages, or, possessing equal advantages, to be liable to fewer or less considerable inconveniences, your committee will not distrust the good sense of the people of the United States, in ultimately selecting this mode without Constitutional restraint, as their uniform mode of electing the President and Vice President of the United States.

Your committee hold it foreign to their duty to enter into a comparative view of the merits and demerits of the various modes which have been or may be adopted under the existing provisions of the Constitution of the United States; they hold it sufficient to authorize the rejection of any proposition for the exclusive establishment of any particular mode, if such mode shall, upon candid examination, be found liable to serious abuses of most dangerous consequence to the public peace; against which abuses, under such mode, no practicable

means have been, or probably can be found, for prevention or remedy.

The liability of the mode proposed to such abuses cannot be made more manifest than by a brief review of the essential details of that mode.

To carry into effect the mode proposed to be exclusively established, every State must necessarily be divided into a number of districts in proportion to the number of electors to be appointed in each State, respectively. These districts must, of necessity, be again sub-divided, for the convenient reception of the votes of the people. Authority must be delegated to one or more officers in every sub-division of every electoral district throughout the United States for the purpose of receiving those votes.

Amidst so great a variety of officers thus to be intrusted, it would be against the calculations of all experience to suppose there would not be found some who might be reasonably suspected of a liability to the deviations of error, if not to those of a worse nature. No government upon earth has, or can have, competent knowledge of so great a variety of individuals, as to insure, through the cautiousness of appointment, against such deviations in all instances. Absolute prevention, then, is not to be expected.

The votes of some, possessing the right of suffrage, may be rejected; the votes of others, not possessing the right of suffrage, may be admitted; whether such rejection or admission proceed from error of judgment, or from design, it will equally lay the foundation of a contested or disputed election between the candidates for the electorship.

When the votes of the several sub-divisions of an electoral district have been taken, the polls, or lists of those votes, must be brought together for an addition and comparison; and a return must be made of the person appointed an elector. Whether that return be made by the officers (authorized originally to receive the votes) in a collective body, or whether it be made by some other authority, to which those officers may be directed to transmit the polls or lists of the votes taken by them, there may (amidst the conflict of passions, too likely to prevail on such occasions) too probably be found means of suppressing the polls, or lists of votes of some of the sub-divisions of a district, or of preventing or delaying the transmission thereof; so that one man might be returned in apparent conformity with law, the elector of a district, when, in reality, another may have been appointed by the people of that district.

The common experience of elective governments evinces that cases, such as those above suggested, are by no means out of the course of probable occurrence. Instances of disputed elections, contested upon similar grounds, frequently occur in ordinary legislative bodies, notwithstanding the knowledge that a remedy exists within the scope of the power of those bodies. The protracted periods of their sessions give time for investigating and deciding upon the merits of such contested elections. The knowledge of the practicability of such remedy probably tends to discourage the greater frequency of such occurrences.

But the bodies of electors in each State, respectively, from the necessarily restricted periods of their sessions, are incapacitated to collect the necessary evidence, and to pursue such other steps as are essential to the investigation of and decision upon the merits of a contested election of one of their members, were they otherwise competent thereto. Those, therefore, who may be returned electors, whether duly and really appointed or not, will, in practice, exercise the important functions

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of electors of the President and Vice President of the United States. No practicable remedy against such abuses appears to exist in the present stage of the proposed system; a knowledge of the defect of such remedy, moreover, it is to be feared, might act as an additional temptation to the frequency of abuse.

The votes of the electors in the several States are next to be rendered by ballot, and, when so rendered, they are to be transmitted in the form of certificates, giving the result of the ballot to certain officers of the Government of the United States. When the period arrives for opening those certificates, and counting the votes in the presence of the Senate and House of Representatives of the United States, if error or abuse shall have taken place, no means exist (in case the ballot be in favor of more than two persons as President and Vice President) for discriminating between the votes of those who shall have been duly appointed and returned, and those who shall have been defectively appointed and unduly returned as electors. To set aside votes given by persons not duly appointed, and consequently wanting the competent authority of electors, no course presents itself in such case, save that of vacating the whole ballot, of which the defective vote or votes may be a component part. Thus, to deprive a State of all participation in the election of the President and Vice President of the United States, on account of the defective appointment of one or a few of its electors, would be a serious and painful duty. To vacate such ballot, and thereby to deprive those candidates for whom the sound votes of such ballot may have been given, of the aid of that ballot, in order at the same time to destroy the effect of the unsound votes, might result in giving to others a priority, to which, if effect could be given to the really sound votes, those others might not be entitled. This also presents an embarrassing consideration.

The vacation of a ballot, composed of sound and defective votes, ought to be the result of uniform principle; it ought to take place on all occasions where a discrimination cannot be made, or on none. Not to vacate such ballot, but to permit the election of a Chief Magistrate to be carried, on any occasion, by the aid of one or more defective votes, would be to hazard, in a most eminent degree, the peace of the Union. It is of the last importance to the happiness of the people of the United States, that a complete conviction should prevail at all times that the person who may be elected Chief Magistrate of the Union has been really elected by electors duly and really appointed by those having competent authority for that purpose. It were painful to anticipate the consequences which would too probably attend a disputed election to the Presidency; those consequences might be more calamitous than can be foreseen.

A mode of electing the President and Vice President of the United States, which might at once combine the expression of the public sentiments of the people of the respective States, with a perfect assurance of the due appointment of the electors for that important purpose, is a discovery greatly to be desired; that such mode may be found, under the present provisions of the Constitution of the United States, and will be discovered by the good sense of the American people, when aided by further experience, is confidently hoped. Under such circumstances, to adopt exclusively the mode proposed by the first resolution referred to your committee, might not only preclude the advantages of further experience, and the adoption of a more eligible mode, but might tend to perpetuate, as well as to render more frequent the occurrence of those exceptionable incidents

which have been before suggested, and for which it is difficult, if not impracticable, to find adequate and convenient means of prevention or remedy.

These considerations induce your committee to prefer the existing provisions of the Constitution of the United States to the change proposed by the first of the resolutions referred to them.

In relation to the second resolution referred to your committee, they report, that the objects directly contemplated therein are already within the limits of the Legislative authority of the Government of the United States. To convert a Constitutional provision for the exercise of Legislative authority, to which recurrence may be had at all times, and under which such modifications may be introduced, from time to time, as the public good or convenience may require, in the ordinary forms of legislation, into a specific Constitutional prescription, seems to be both superfluous and inconvenient.

The adoption of the change proposed in the second resolution would also, in the opinion of your committee, indirectly tend to withdraw from the Government of the United States its existing control over the appointment of one of its most essential branches, and to vest that authority exclusively in the State Governments. Such arrangement might produce consequences not contemplated, and too unpleasant to be anticipated. Your committee, therefore, conceive it to be inexpedient to adopt the proposed change on this subject, and submit the following resolutions to the consideration of the House:

Resolved, That it is inexpedient to change the Constitution of the United States, in the manner proposed by the first of the aforesaid resolutions, in relation to the election of the President and Vice President of the United States.

Resolved, That it is inexpedient to change the Constitution of the United States, in the manner proposed by the second of the aforesaid resolutions, in relation to the election of members of the House of Representatives of the United States.

SEDITION ACT.

The House went into a Committee of the Whole on the unfinished business of yesterday, which was a resolution reported by the Committee of Revision and Unfinished Business, for continuing in force an act commonly called the Sedition law.

Mr. BAYARD said that after what had fallen from gentlemen who opposed the revival of the Sedition law, it became necessary for its former friends to support it in their own justification.

He thought, from a consideration of the nature of the law and the crimes it was intended to punish, viz: false, scandalous, and malicious libels, it was surprising it should meet with any opposition. Is it, he said, no crime falsely and maliciously to asperse the Government of the country? From the enormity of the offence, and the extent of the injury, it was necessary to make examples of such offenders in order to deter others. Were he in a despotic country, he would feel but little anxiety about this subject; but in this country we stand on different ground. Our Government depends much upon the opinion of the people. To mislead or corrupt public opinion, is to sap the pillars which support the Government, and produce its ruin.

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Gentlemen say, and pretend to think, there is no necessity for a law of this kind; that the good sense of the people will prevent the evils apprehended from false publications. It is, however, found that the most intelligent are deceived in this way. When falsehoods are stated in newspapers as facts, and remain uncontradicted, what chance is there for their not being believed? The gentleman from Maryland, (Mr. NICHOLSON,) was himself so far deceived and deluded that he ventured to state to the Committee one of these assertions as a fact. This is adduced to show in a strong point of light the necessity for such a law. Mr. B. had as much confidence as other gentlemen in the good sense, integrity, and patriotism of the people, when not misinformed. To prevent this is the object of the law; that newspapers may thus be made the channels of truth, punishment is only to be inflicted when known falsehood is maliciously published. Can this be called no crime? Can any one say a man may falsely, wickedly, and maliciously publish things with a view to destroy the Government, and yet not be amenable to justice?

It is allowed that Government has power to punish insurrections, and even combinations to prevent the execution of the laws. If this may be done, should not the instruments of insurrection and illegal combinations also be punished? May we not strike at the root of the evil? May not false publications produce insurrections? In his opinion, there would have been no insurrection in this country, had it not been for the publication of false, scandalous, and malicious libels. Unless provided against, the time may come when the country will be deluged with evils occasioned by such falsehoods.

The gentleman from Virginia, (Mr. NICHOLAS,) opposed the law as essentially wrong both in theory and practice. Mr. B. then entered on a review of the cases in which it had been carried into practice. Respecting Callendar's trial he knew but little. The doctrine advanced by the court was a very alarming one in the opinion of the gentleman from Virginia. The jury had a right to decide upon the law and fact, but not upon the constitutionality of the law; the judge was therefore authorized in prohibiting any argument on that point.

He then took a view of the case, in which, it was said, an honorable gentleman of that House had been fined in a large sum, and confined in a loathsome dungeon. What, he inquired, was the object in mentioning that case? A libel was published against the Government; a jury of the country declared it to be false, scandalous, and malicious, and yet the punishment is complained of as a hardship! As well might we be told of hardship when a felon suffers for his crime; or that it was hardship when a vote was taken for expelling the honorable gentleman from this House.

Will you say that the judge and jury were corrupt? The House by a vote sanctioned their decision. He was convicted by a fair trial, and if the court did wrong, so did this House. If the

court, acting under oath, entered so far into party prejudice as to neglect their duty, why not impeach the judges? It is improper to cite these authorities when the judges cannot justify themselves. This is a case of real hardship. Why do not gentlemen come forward and impeach the judges if they have done wrong? They are not above the justice of the country. It would be administered even against them. They are said to be under party prejudices. Mr. B. believed they could be trusted. He never suspected them of doing wrong; full evidence should be adduced of it prior to its being believed. Will gentlemen say there is no chance for impeachment, because a majority in both Houses are biased by the same party prejudices? What is the amount of this argument? Those who think with me are impartial; those who differ from me are under party prejudice. Mr. B. believed the gentlemen opposed to him sincere in their intentions. He also believed the judges were sincere; that they had been correct in their principles. He was warranted in what he said by the charges made against them being groundless.

The charges delivered by the judges have been complained of. The object of the charges has been to inculcate a love of order and good government. This might be party prejudice in the opinion of some gentlemen; if so, he must still applaud the judges.

It is said, the law is unconstitutional. He thought a sound mind might be intuitively convinced of the contrary. If such a law is necessary to preserve and continue the Constitution, it is Constitutional. It is necessary to defend the Government from the attempts of assassins. If you allow the Government to be brought into contempt, the Constitution will become a baseless fabric, and in time will vanish away. The right to make such a law he thought was clearly and expressly given in the 8th section of the 1st article of the Constitution, which says, "Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof." In his opinion, the law is so essentially necessary, that without it the Government would be paralyzed and stripped of all defence. He thought it unnecessary to trouble the House with further argument, as those offered were sufficient in his opinion; he knew of no stronger ones.

Mr. B. was of opinion, that if this law is permitted to expire, the common law will be in force, by which fine and imprisonment are unlimited, and truth is not allowed to be given in justification. By some it is denied to be the law of the land. It ought to be remembered that the common law is the parent not only of the liberty of this country, but of England and all Europe. How differently, he said, we feel from what our ancestors did who were ready to spill the last drop of their blood in its defence! To the common law we owe the trial by jury, and many other

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rights; yet it is reprobated. Is it not the boast even of Virginia? Was it not objected to the Constitution in the Virginia Convention, that it did not recognise the common law? The Constitutions of all the States are predicated on the common law, which is made up of the rules of right reason, founded on the experience of ages. If courts are not bound by the common law, they must be governed by their own arbitrary will. If the common law is not binding, there is no law, and gentlemen surely cannot dream of liberty without law. If we are governed without law, it is despotism, whether government is by the will of one or many. Were we left to the will of courts we should be in a state of uncertainty; we should be liable to suffer from caprice, vice, folly, and every weakness. The existence of the common law is of immense importance; without it, the Constitution would be a mere skeleton, devoid of sinews and nerves, and incapable of motion.

Gentlemen seem to suppose they have started an insuperable difficulty by asking what period you will fix on for taking the common law, and with or without the modifications of different statutes.

He would take it as taken by the States, with no more difficulties than our ancestors took it. It was no difficult matter to draw the line. He would take it at the adoption of the Constitution, as modified by the statutes of the States. What objection could be made to this? Was there more cause of alarm at its being adopted by the United States courts than in the courts of the different States, where they love the common law? They cannot surely object to it as it is dispensed in all the courts.

To paralyze the General Government, and confide all power to the State courts, is a system invariably pursued by some gentlemen on this floor. He was not, therefore, surprised that they should wish it not to be the law of the courts of the United States. We must, however, have one of the two alternatives; take the common law or have no law. The courts must be either despotic, or bound by the common law.

If a government were given to this Territory, and a Judiciary established, it would be under the common law. Whenever a constitution is formed, it is bottomed on the idea of the common law being in existence. The ancient opinion was that the common law was the law of the United States. Now, judges are called despots for deciding by it. This is the novel opinion which should be scouted from the floor of the House.

Mr. B. referred gentlemen to the 11th article of the amendments to the Constitution, which says, "No fact, tried by a jury, shall be otherwise re-examined in any court of the United States, than according to the rules of the common law." Here the existence of the common law is recognised, unless the article is without meaning.

Suppose a man convicted of treason, and a motion made for a new trial, must not the determination be by the rules of common law?

In the third section of the tenth article of the Constitution, after defining the extent of judg-

ment, it is said, "But the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law." It could be only the common law here referred to.

In cases of impeachment, how would Senators form their opinion? The Constitution has given no direction as to the manner of conducting them. The common law only could direct.

Persons can be impeached only for offences against the United States. After conviction, they may be punished by law; certainly the common law, and that part of it which relates to criminal cases.

Again, in the same article, felony and breach of the peace are spoken of; how are these to be defined? Only by the common law. In defining a breach of the peace there are many nice distinctions.

Mr. B. said he could cite many other cases, but they were not necessary. He would, however, refer gentlemen to the opinions given in the course of legislation, which was a fair mode of construction.

Those who first had the Government of the United States in their hands proceeded upon the opinion that the common law was the law of the land. In one place they recognise the right of common-law remedy. In the act establishing the Judiciary they say, "The circuit courts shall have concurrent jurisdiction in all suits at common law."

Mr. B. concluded by saying: If I am correct in my position that the common law is the law of the land, the Sedition law ought to be continued, because it limits and softens the penalties in cases of libels, which are very harsh according to the common law. The gentleman from Virginia has rightly appreciated my motives in wishing to renew this law, when a different administration is to take charge of the public welfare.

Mr. GALLATIN said it had been his intention not to rise again on this subject, but as the gentleman from Delaware had said, that if this law is not continued in force, the common law will be the law of the land, he would make a few observations. As to the constitutionality of the law, it is alleged to be necessary for carrying into operation certain defined powers of the Constitution. Surely this law cannot be necessary to carry into effect these defined powers, if the common law will remain in existence according to the gentleman's opinion. He rests much upon the necessity of it to protect the Government from slander. Mr. G. supposed the evils arising from this source were not so much to be dreaded as those which would result from the attempt to punish slander. He wished to know what a false, scandalous, and malicious libel is. If punishment could be confined to those only who published as facts what was unsupported by truth, he would not think the law improper. It could not, however, be denied that recourse must be had merely to the opinion of the judges respecting things of very difficult definition.

The gentleman from Delaware had entered

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largely into the discussion of what had never been denied, that the common law is in some measure the law of the land. But after he had paid every encomium to the common law he allowed it to be harsh in respect to libels.

The Sedition act says truth shall be given in evidence, the gentleman supposed that without that provision the judges would be bound to decide by the common law. He thinks, too, that it has gone further, by allowing the jury to determine the law and the fact, as in other cases. This supposes they had not this right before. Then as to libels the common law is contradictory to its usual allowance.

In a cause of this kind in England, a judge gave it in charge to the jury that they were only to inquire whether a certain paper was printed and published by the accused. As well might he in a case of murder tell them they were only to inquire whether the accused had killed the man, without any attention to the criminality of his intention.

Mr. G. did not think the courts of the United States would at once assume jurisdiction over libels, according to the common law, in case this act was not revived.

The gentleman from Delaware had mentioned the case of a member of this House who had been punished under the Sedition law, and considered the vote given for his expulsion as a sanction of the decision of the judge and jury. In such instances the Constitution declared that two-thirds were necessary for a decision. This was provided on the principle that such might be the prevalence of party spirit, that a majority would agree to expel without well-grounded reasons. The vote was, therefore, a nullity, as two-thirds did not agree to it. Mr. G. considered laws of this kind as the means of introducing party views into courts of justice; and that it was only in such cases that any danger of partiality was to be apprehended; here it is to be apprehended, unless you can suppose judges become different men merely by being placed on the bench. It is also certain that the jury must be composed of one or the other party, and is, therefore, incompetent to decide upon opinions. He did not suppose them intentionally doing wrong. He asked if any gentleman in the House would be willing to be tried for a libel by a jury chosen from the members of it who are of different political opinions? He confessed he would not.

The gentleman from South Carolina had said, that in a certain trial the judge had permitted a book or newspaper to be read, although it was not legal evidence. This shows that the accused was at the mercy of the judge, since he could not claim it as a right.

The same gentleman had spoken of the impropriety of the President being summoned as a witness. Suppose a person is accused of having written and published a false and malicious libel, in which he states that the President has expressed certain opinions; on the trial he says, I will prove the truth of my assertions; how is it to be done? By printed declarations? No; that

is not legal evidence. He cannot summon the President. Thus, though truth be on his side, he cannot give it in evidence. This shows how difficult it is to carry such laws into effect without oppression. Thus the provision that truth may be given in evidence is rendered useless.

Finally it is said that as it is upon public opinion our Government depends, the public opinion should be guarded from corruption. What, he asked, is meant by saying the Government depends upon public opinion? Surely it is not intended to mean whether there shall be a Government or not. It can only relate to the persons who administer the Government. It depends wholly on the public opinion, who shall administer the Government, but not whether there shall or shall not be a Government.

Mr. G. contended that the common law is modified by different Governments. To suppose that truth should not be given in evidence was inconsistent with the nature of our Government; and if this law did not exist, the common law would be thus modified in this country.

If the existence of this law had been found to correct public opinion it would be well to continue it. In this country, he said, opinions were divided between two sets of men, and the people will vote for those who they conceive will best answer their views. Mr. G. could not see how this law would correct or render pure the channels of information, if only certain kinds of libels were punished. How, he asked, has it been executed? Only by punishing persons of politics different from those of the administration. It has not prevented the corruption of public opinion, according to the explanation which the gentlemen in favor of the law have themselves given of those words. If the Sedition law was adopted only as a part of defensive measures, it is no longer necessary.

Mr. OTIS said, that when the gentleman from Pennsylvania, (Mr. GALLATIN,) who had last risen, contended that the law which the resolution intended to revive, provided for the punishment of opinions, as well as of actions, he spoke a language quite unintelligible to him. This sentiment had been often repeated, and he would test its soundness by an appeal to the gentleman himself. Would that gentleman, however unfavorable his opinions may be of the Administration of this country, consent to adopt any of the methods described in the act to express his censure? Would not he, or any other gentleman of his party, blush and be ashamed to publish a writing, false, scandalous, and malicious? He presumed the answer must be affirmative. Yet that gentleman would not and did not hesitate to declare opinions injurious to the Government; he was not afraid to express any sentiments which he entertained upon this subject, without an idea of incurring the penalties of this act. This, then, Mr. O. contended, was a fair standard to try the meaning and extent of the provisions in this act, and to show that they did not apply to matters of opinion. Cases indeed might possibly arise in which the mere forms of expressing opinions might be adopted as

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the disguise of an intended libel. A man might choose to think everything that is infamous and atrocious, and to publish his thoughts without a fact to justify them. In other words, positive assertions might be conveyed under the assumed form of opinions to evade the law. In these cases his cunning ought not to serve for his protection, but still the law did not restrain free investigation, nor even the most acrimonious censures of the measures of Government, unless they are falsehoods direct, scandalous, and malicious.

Mr. O. professed his admiration at the dexterity with which the opponents of the resolution had contrived to shift the burden of proof from their own shoulders to those of its friends, by leading them insensibly into a discussion of the original merits of the measure. He understood it to be an agreed point in the first stage of the debate, to waive all argument in relation to the constitutionality of the act, and simply to consider its expediency. But this ground is changed by degrees, and principles and arguments which have been frequently canvassed to the bottom, are once more brought into view. He did not, however, feel it incumbent on him to follow gentlemen upon this ground. He would not, at this time of day, permit himself to be seduced into a new argument upon the constitutionality of the measure. It was sufficient for him, that, on former occasions, he had not shrunk from this discussion. It was sufficient for him, that a glance at the Constitution demonstrated its powers to extend to all cases in law and equity, arising under the Constitution, and that this word, *law*, intends the common law, without which whole phrases, as well as many technical terms contained in that instrument, must remain destitute of interpretation. But above all it was a sufficient answer on this occasion, that the wisdom of a former Legislature, composed of a majority of the present members, after great deliberation, had adopted this law, as a safeguard against the rapid progress of an unparalleled licentiousness, which threatened the subversion of the Constitution. When it is considered, further, that this House has, in two instances, affirmed the constitutionality of this most salutary law; once by rejecting a resolution to repeal it, and once by sanctioning the judgment of a court in the case of the member from Vermont; was it reasonable to expect that a majority would be formed ready to abandon a doctrine to which they had, with such solemnity, subscribed their assent? For these reasons, said Mr. O., we are acquitted from all obligation to justify the act upon the principles which gave it birth, and in my turn I call on gentlemen to prove the mischiefs and grievances which have sprung from it. Let them show that it has been used as an instrument of oppression, and the scourge of innocence. Let them demonstrate its inexpediency from the practice that has arisen under it, and if they succeed in this attempt, then, indeed, with a good countenance, they may call on us to rescind it.

What then, said Mr. O., are the mischievous consequences that have resulted from this act? What are the abuses which are incident to its

operation? Two arguments are principally relied on by the gentlemen from Virginia and Pennsylvania. They contend that there exists a moral incompetency in our Federal courts to decide causes of this description with impartiality; and again they say, with the gentleman from Maryland, that the law has been executed with rigor. But why are the Judges of the Federal Courts disqualified to decide upon cases of this nature? It is answered that they owe their appointments to the President, and are naturally inclined to support the side that may be supposed most congenial with his feelings and interests. In vain we reply to this suggestion, that although the President appoints the Judge, yet the tenure of his office is perfectly independent, and his salary permanent. This is true, say gentlemen, but he may be a candidate for the office of Chief Justice, or for a foreign mission. Now, it happens unfortunately for this argument, that not one of the judges who has yet presided at a trial for a libel has been either promoted to the office of a Chief Justice, or sent upon a foreign mission. This species of reward must therefore be allowed to be a very precarious compensation for a violation of oaths and an abandonment of duty. Sir, arguments like these are a satire upon the nature of man, and his capacity to frame a Constitution; when you have selected men of talents and tried integrity for judicial stations, and rendered them independent by ample salaries, you have done all that human prudence can devise, and you have done enough.

With equal justice, said Mr. O., might it be pretended in the present case that our courts are not competent to try an action of debt where the President is interested, or an assault and battery upon his person, or a riot, or combination, to obstruct him in the discharge of his official duties. In these cases your judges would be equally liable to the influence of an unjust partiality, if such partiality could be presumed. But the objection of incompetency extends not merely to the judges. The jurors are also disqualified for an impartial discharge of their duty. They are returned by the marshals, who are appointed by the President. I repeat, sir, that this argument is unfortunate in the quarter whence it proceeds. It is in those parts of the Union only where this law is obnoxious that the marshals have this power of returning jurors; a power derived from their State laws, which they may change at pleasure, and which the laws of the Union do not affect.

Let us then advert, Mr. Chairman, to the cases which have been noticed as instances of the rigorous operation of this law. In the case alluded to by the gentleman from Virginia, it is said that the people of that State were astonished at the extraordinary proceedings of the presiding Judge. But where the cause of the astonishment consisted, the gentleman does not explain. The question, however, is not whether that Judge was singular, or even mistaken, in some of his opinions or rules of proceeding, but whether substantial justice was done on the trial. Will the gentleman tell us the people of that State consider

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the sentence unjust or the punishment severe? Do they accredit the charges contained in the book of that most infamous culprit? Will they countenance the atrocious falsehoods for which he was punished? I think too well of the people of Virginia to believe this to be possible. The case from Pennsylvania has been thoroughly sifted and explained by my friend from South Carolina, who was present at the trial. In regard to the other case of a member from Vermont, I forbear to make any remarks, the circumstances of it being recent and familiar to the recollection of the House. It was not my wish to allude to it. If that member enjoys the serenity of an approving conscience, it shall not be disturbed by me; but if, on the other hand, past scenes are with him a source of pain and regret, I will not plant with my finger an additional thorn in his bosom.

We come now, Mr. Chairman, to the case of the Boston printer—to the poor, unhappy man, who died a martyr, and is now alive. Two persons of the same name were concerned in publishing the *Boston Chronicle*, one of them the ostensible owner and editor of the paper; the other, the superintendent of the business. A very gross libel appeared in that paper, for which the editor was perhaps recognised to answer, but was never brought to trial. He was in the last stage of a consumption, and was finally arrested, not by the Marshal of the district, but by that grim messenger whose mandate strikes terror to the heart of the false and malicious libeller. He died in his own house, and peace to his ashes. The other party, who conducted the business of the office, was at length arraigned for the offence. But, sir, not upon the Sedition law, not in a court of the United States, but upon that good old wholesome common law, to which the people of our country cling as the charter of their most precious right; a law, sir, by which we yet hope to preserve our religion, our morals, and our ancient habits. He was convicted, not by a jury returned by a marshal, but by the verdict of twelve honest men, chosen by lot from the whole town in which he dwells, and he was sentenced to imprisonment for a short period, I believe not more than two months, certainly not exceeding four. This, Mr. Chairman, is the case selected as an instance of the most cruel oppression of this law. This is the man who, until within a few hours, was thought, not only by the gentleman from Maryland, (Mr. Nicholson,) but by a great majority of this House, to have perished in a prison under circumstances of aggravated wretchedness; and while many a patriotic heart beat high with indignation at this treatment, and many a pious, sympathizing friend, sang requiems to his departed spirit, this dead man had escaped from prison, was at his old trade again, and the groans of his press, under the new weight of new libels, echoed responses to the lamentations of his friends.

Sir, said Mr. O., I dwell upon this case, not with a view to triumph in the misstatement of the gentleman from Maryland, but to draw from it a strong and conclusive inference in favor of the act. What plainer evidence can you have to prove

that these outrageous falsehoods do not merely waste their force upon the desert air? They sink deep into the minds of men in high stations, and bear directly upon the measures of this House and Government. Can that gentleman, can any other honorable member of this House, distinguish what portion of the ingredients that form the combination of prejudices, which he may have conceived against the Government, consists of such materials? And, sir, when men in important public stations—men qualified for them by their talents—when minds to which all the avenues of intelligence are open, are exposed to all these delusions, what can you expect from the gaping and promiscuous crowd who delight to swallow calumny? What from the sons of riot, and intemperance, and idleness, who cluster in the alleys and dram-shops of your cities? What from the more innocent but equally deluded yeomanry, among whose sequestered retreats these poisons are scattered by officious missionaries who prowl through the country, disturbing the silence of the woods and tranquillity of the cottage? Can it be a subject of wonder that ordinary minds are agitated with a mighty ferment when these tales are woven with such art, circulated with such industry, and repeated with such effrontery as to produce belief in men generally well informed? Under these circumstances do you wonder, sir, that the fear of future danger should absorb the consciousness of actual security, and that men should be roused into active opposition to the best and mildest system of government? Sir, these consequences are natural in course, and accordingly you this day are a witness to them. The men who framed and who, for twelve years have nurtured the Constitution; the men under whose administration our affairs have prospered, and our agriculture and commerce flourished beyond all former experience, are now driven from the helm and are succeeded by whom? By those who, I hope, will do equal justice to the confidence of the people.

Mr. Chairman, I pity the blindness of that man who does not perceive that the press is the engine which is probably destined to overturn the Government of this country. It has been instrumental, indeed, of the greatest benefits to mankind, by the destruction of systems founded in civil and religious tyranny, but it may be rendered not less formidable to governments which have the freedom and happiness of man for their basis. In no country was a more systematical and inveterate design to destroy a government by means of the press manifested than it is in ours. There is nothing sacred in virtue, nor fair in character, nor endeared by services, which does not fall a prey to the insatiate fury of certain printers and their abettors. The immortal WASHINGTON has been charged with murder, and with speculating in the funds with the public money; the President of the United States has been accused of designs to change the Constitution, to establish monarchy, and to maintain himself in place by an army; the late Secretary of State has been represented as a speculator; the late Secretary of the Treasury, a man who is an ornament to his country, has

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been stigmatized as the felonious burner of public offices and records. No mercy has been observed in the violation of truth and decency; no character has escaped, unless protected by its own congenial infamy and baseness. Yet, sir, these are offences which we have no power to punish! These are merely the feverish symptoms of liberty, which truth alone is sufficient to allay!

But, we are told, Mr. Chairman, that under the new order of things, no use will be ever made of this law, and it is therefore superfluous to re-enact it; that the new Administration will disdain to avail itself of its protection; and that such measures will be pursued for the preservation of harmony, as will secure us from the penal consequences of the common law, by depriving us of all cause of complaint. Sir, to this argument I reply, that if the law is to fall into disuse, no harm can result from its revival, and the anxiety of gentlemen is the more extraordinary. But when gentlemen promise us that this law will remain a dead letter, they can speak only for themselves as individuals. Hitherto, much greater rigor and keenness in prosecutions for libels have been displayed by the party opposed to this law than by its advocates. Look at the prosecutions, and menaces of prosecution, in Pennsylvania. Reflect on the amount of Republican damages. The enormous sum of two thousand dollars was lately awarded for a libel, against a young printer, at the suit of a Democratic Republican. A judgment which I will venture to say will prove more oppressive than any adjudication under the sedition act. I learn from good authority that other prosecutions are pending, and others still threatened from the same quarter, so that no great reliance can be had upon the forbearance of gentlemen in this respect. I confess, sir, however, it is with great pleasure I hear it announced by the gentleman from Virginia, that great union of sentiment, and general harmony, will prevail under the new administration. I wish, however, he had condescended to be more explicit. Is the system adopted for the support of our public credit to be maintained? Without this there can be no harmony. Will an adherence be observed to the principles of a fair and impartial neutrality in the European contest? For, without these things, there will be no safety, and, of consequence, no harmony; but if the gentleman will give us satisfactory assurances upon these topics, and a few others that might be mentioned; if, in a word, the credit and the honor of the country shall be preserved by the energy of Government, we may yet hope for this desirable harmony.

The gentleman from Pennsylvania, said Mr. O., has reported the intimation that no advantage has resulted either to the Administration or its friends from this law. But, sir, if this were true, it would furnish no argument against the law itself. If it has not been enforced, the makers of it are not culpable for the omission. I believe, sir, that very material benefits would have flown from it had ten prosecutions been instituted where one has been; had three or four venal presses, set up with foreign money, and conducted by incendiary emi-

grants, been crushed and silenced. But although these have been tolerated by an abused and insulted people, and are still suffered to disgorge their impurities, yet has the law been productive of important advantages. It has enabled us to rescue the Constitution from misconstruction; it has established a high and binding precedent; it has developed principles essential to the security of all government; which opposition itself, in a season of returning moderation and reflection, will be compelled to acknowledge and adopt.

Sir, the gentleman from Pennsylvania contends that the prosecutions under this act, have been confined to men of one political sect, and mentions a pamphlet printed in New York, as a libel which has been permitted to pass unnoticed by the magistrate. But there is a singular infelicity in the choice of this example; without giving any opinion upon the pamphlet alluded to, I will remind that gentleman, that whatever might have been the designs of Government, they were anticipated by the eagerness of democratic zeal. A certain Northumbrian apostle of liberty rode post to New York to snatch the Sedition law from the hands of his friends, and to apply it with his own hands. To have interrupted him, in this promising pursuit, would have furnished real cause for complaint: no other instance is quoted by the gentleman, but his proposition may be nearly correct. It is for libels upon Government and its officers, alone, that Congress is authorized to provide a punishment. The State laws are competent to redress the injuries of individuals, and in Pennsylvania at least, no charge can be made of an indisposition to afford this redress.

Mr. Chairman, I will not enlarge at this late hour upon the cases furnished by that gentleman's imagination, in which a failure of justice might happen through want of evidence or other means. In these, as in all other cases where the best evidence is of necessity precluded, that which is next in the nature of things and in the power of the party, is permitted. I see nothing in the Constitution or the law, or in the practice under the law, that should induce those who once supported it, to desert it at this moment. The prospect of a war with France is more remote, but the temper of the times is not changed, nor the licentiousness of the press controlled. We may want this law as a coat of armor to defend us from persecution, and we should be willing to give to the new Administration the means of protection that have been provided for their predecessors. For these reasons my vote will be given in favor of the resolution.

FRIDAY, JANUARY 23.

Mr. GRISWOLD, from the Committee of Ways and Means, presented a bill making appropriations for the Navy of the United States for the year one thousand eight hundred and one; which was read twice and ordered to be committed to a Committee of the whole House on Monday next.

On motion it was
Resolved, That the Committee of Ways and

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Means be instructed to inquire into the expediency of obliging the respective officers intrusted with the collection of the revenue, to enter into such bonds as will more effectually secure the payment of moneys received by them for the use of the United States; and that they report by bill, or otherwise.

Mr. RUTLEDGE, from the committee to whom was referred, on the twentieth instant, the letter from the Commissioners of the City of Washington, relative to the accommodation of the Supreme Court of the United States in the Capitol, made a report; which was read and considered: Whereupon,

Resolved, That leave be given to the Commissioners of the City of Washington to use one of the rooms on the first floor of the Capitol for holding the present session of the Supreme Court of the United States.

The bill presented yesterday to provide for the better establishment of the post roads of the United States was read twice, and committed to a Committee of the whole House on Wednesday next.

Mr. HENRY LEE, from the committee appointed, presented a bill for the government of the District of Columbia; which was read twice and committed to a Committee of the whole House on Wednesday next.

DISTRICT OF COLUMBIA.

The following resolutions were laid on the table by Mr HARPER, and directed to be printed.

Resolved, That, for completing the public buildings, already commenced at the City of Washington, the sum of — dollars, to be paid in annual instalments of one hundred thousand dollars each, ought to be advanced by the United States by way of loan; and that the public property in the said city, after discharging the incumbrances incurred for former advances for the said city and buildings, ought to be pledged and applied, under the direction of Congress, as a fund for the reimbursement of the said loan.

Resolved, That the said sum, and all other sums applicable to the same objects, and hereafter to be received, or now on hand, ought to be applied, under the direction of the Secretaries of the State, Treasury, Navy, and War Departments, with the approbation of the President of the United States; and that the said Secretaries, or any three of them, ought to be empowered to employ a proper clerk or clerks for keeping the accounts for the said expenditures, and all suitable architects, agents and workmen, for carrying on and completing said buildings.

Resolved, That a suitable apartment or apartments, in that part of the Capitol already finished, ought to be fitted up for the temporary accommodation of the Courts of the United States, appointed, or hereafter to be appointed, to be held in the said city, and of such courts as may hereafter be appointed to be held therein for the Territory of Columbia; and that, in completing the Capitol, permanent accommodations for the said courts ought to be provided therein.

Resolved, That the sum of — dollars, annually, ought to be appropriated towards the establishment of a National Library, to be applied under the direction of the Secretary of State, and that a suitable apartment, in that part of the Capitol which is now finished, ought to be

fitted up for the reception of the said Library; and that, when the Capitol shall be completed, suitable apartments for the reception and use of the said Library ought to be provided therein.

Resolved, That the sum of — dollars ought to be appropriated for the suitable furnishing of the President's House, to be applied under the direction of the Secretaries of State, Treasury, War, and Navy Departments, with the approbation of the President of the United States; and that the said Secretaries, or any three of them, ought to be empowered to employ a suitable agent for that purpose.

Resolved, That the Board of Commissioners for the City of Washington ought to be discontinued, and the public property in the said city to be placed under the direction of the Secretary of the Treasury, with authority to appoint such clerk or clerks, for the particular management thereof, as he may judge necessary; and that all powers, rights, duties, and trusts, now vested in, or belonging to said board, ought to be transferred to the said Secretary.

SEDITION LAW.

The House resolved itself into a Committee of the Whole on the unfinished business of yesterday, which was a resolution reported by the Committee of Revisal and Unfinished Business, for continuing in force the act commonly called the Sedition law.

Mr. H. LEE rose to express his great pleasure at the very fair and candid manner in which his colleague (Mr. NICHOLAS) and the gentleman from Pennsylvania (Mr. GALLATIN) had conducted themselves towards the State he represented; but he could not wholly approve of the sentiments expressed by them.

With respect to the constitutionality of this law, after what had been so ably advanced by his friends in its behalf, he would only observe that even with the suspension of those sentiments, or without any other support, the decision of the sub-court ought to be with every gentleman, and effectually was with him, sufficient to remove every possible doubt. From the moment of that decision every doubt ought to have ceased, and the question never again to have agitated the Congress of the United States. Those who had been taught to obey the Constitution, must approve of its decisions, and nothing could be more evident than that the reference to the Judiciary of our Government was the precisely accurate mode of ascertaining the veracity of a Legislative measure.

The gentleman from Pennsylvania had told the House that this law was the offspring, and had become a part of a defensive system, adopted when the aggression of a foreign foe raised into action every measure of repulsion within the power of the country, and that it was so considered at a succeeding session of the House. Not having the honor of a seat in the House at the time, Mr. L. said he did not know; but, whether that was the reason of its adoption, or whether not, he could not agree with that gentleman that the occasion for this law was at an end. He would not hesitate for a moment to say that this law ought to be perpetual. It was from this impression that

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he should vote for the report, and with pleasure would go farther and make it a perpetual law.

In order to examine the propriety of this opinion, it would be necessary to examine the law. What were its provisions, and what its object? Its object is to support your Government—not by suppressing the truth—not by suppressing information proper to be known to your people—not by violating the rights of even the humblest of your citizens—but by giving the truth, and the truth only, its dominion. The gentlemen must pardon him in contradicting them when they said that it operated to the injury of our citizens. He must deny the assertion that the honest well-intentioned citizen could possibly receive the least inconvenience from this law. He owed it to himself and to his friends with whom he usually voted, to declare that it was their most sincere desire to give every truth and every act to the community. He would contend that this law went to adopt, as far as a law could do, measures for the express protection of truth. After a provision against unlawful and forcible combination, the law provided a protection to the Government, by guarding it from the consequences of false and malicious defamation.

He would ask gentlemen to consider candidly whether, if the establishment of an oligarchy, of a monarchy, or of an aristocracy, was desired in this country, how the object could be more easily attained than by beginning with undermining the Government; and how could the Government be undermined but by removing, by every possible manœuvre, the public confidence from that Government? Would not prudence dictate to such characters to bring the Government into contempt? This was too plain to be answered negatively; it must be answered affirmatively. If these efforts then might produce such a result, or if such measures could lead to it, would it not be highly unbecoming those whose duty it was to watch and repel every avenue and attempt that could possibly tend to such an event, not to support the authorities of the country by using every effort to the destruction of such measures? Most undoubtedly so. He contended that it was a most important duty, without the performance of which the House of Representatives would be traitors to that people whose good ought to rest upon the heart of every man, and whose interest could never be more faithfully effectuated than in the perpetuating of a law which would effectually go to protect the Government of their choice.

He was surprised at his colleague's objection, and that of the gentleman from Pennsylvania, when it was made so evidently to appear by the gentleman from Maryland (Mr. DENNIS) that such a protection was afforded by their own State constitution and law! This truth was too strong to be resisted. He believed it to be the case in almost every State. And if so in the individual States, why should not so valuable a remedy be afforded to the Government of the Union? This was the charter of our venerable sires, and what principle should withhold this disposition from their enlightened and experienced sons? Why

should that be denied to the supreme Government which every member of the House, and which every individual in the Union, enjoyed? Why should gentlemen deny that to the Federal Government which was granted to the separate Governments?

There was, however, Mr. L. said, a point of view which this subject assumed to him of a very important nature, and which he had not heard from any gentleman. Unless this deluge of falsehood and defamation was impeded in its course, or prevented by wholesome and timely provisions, the confidence of the people is removed, and even beyond possibility of relief; that fatal blow once given to the confidence of the people, all efforts to re-establish that confidence is in vain.

But gentlemen say that unless this law is suffered to fall, you resist the voice of the people. How do they estimate this fact? In whatever way the voice of the people has been heard on that subject, it is in favor of the law; for expression of the public approbation has been experienced in the re-election of men whose principles are in perfect accordance with those who first enacted it. Added to this, has not Virginia, after expressing her pointed disapprobation of this measure, submitted her arguments and her definitive vote to all her sister States; and out of them how many were there found to approve of her measures? Very few, indeed. He believed out of the sixteen, not more than two or three!

Mr. L. could not but admire the soothing manner in which his colleague consoled the House on the change of politics that was about to take place. For the first time since he had the honor of a seat in the House, had he heard such harmonious and highly grateful accents drop from the lips of that gentleman. As this measure would, most undoubtedly, tend to increase and establish the happiness and security of the Government, and all its well disposed citizens, he hoped that gentleman's harmonious disposition would let us be so for life, and retain to the Government their wonted protection, notwithstanding the change of men and politics. Whosoever of the two great characters should direct the helm of our State vessel—whether he be taken from the South, or whether from the fertile fields of the Hudson—he would be willing to give him all the opportunity of tranquillity, so sweetly promised by his honorable colleague.

But how short lived were these pleasing accents! How soon did we hear from the associates of that gentleman the most poignant anathemas against the Judiciary of our country? Such as could scarcely be thought possible to escape their lips against men who have no opportunity of vindicating themselves! Where are vanished those pleasing forebodings of political happiness? Is it the way to make the people happy to depict the supreme Judiciary of our country—men who hold their offices, not for a day, not during Executive pleasure, but for life—to depict those men in colors so unworthy their high characters! But certain he was that the gentlemen were incorrect in their opinions. Was he not well assured that they

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were in an error, and believed with them that the Judiciary were partial and corrupt, his duty would excite him to join them; not perhaps in attacking men who were not able to answer in the House, but in taking measures whereby a full and fair examination should be had. This he knew to be the mode which true candor would point out.

True it was that a great change had been made in the direction of our affairs; he did hope (though he did not believe) this change would be productive of much good to the people. Believing that this law would be a protection to the Administration in the ways of truth and virtue—wishing to do unto others as he desired they should do unto him—how could gentlemen on the other side suppose that they would violate their principles of honor and integrity so much as to depart from a system they had raised for themselves? What better attachment could be displayed than to afford the future Administration the same aid which was afforded to one more peculiarly approved of by a majority of the present House?

Mr. L. concluded by expressing a most sincere hope that the success under the operation of this law, and a full satisfaction of its being strictly Constitutional, in the opinion of the judges, which our Government stamped with its authority, might operate to continue to the Government every necessary protection, and evince to the world that the political setting of the Federal side of the House was as bright as its rising, and their last acts devoted to the public good.

Mr. MACON said, no member of the House was more willing than himself that the question should have been taken without debate; but, since gentlemen who differed with him in opinion had chosen to discuss it, he should not shrink from it; especially as, he firmly believed, he had both the Constitution and truth on his side.

It was a little curious to observe the manner in which those who approved the law, changed the ground on which they defended it at different times. It originated in the days of alarm, and was then supported as a part of a system of defence against France; at that time this common law of the United States, of which we now hear so much, was not talked of. The second time it was before the House, it was brought up by many petitions from the people in different States, praying for its repeal; then, too, it was considered as a part of the system of defence, and, as the dispute with France was not settled, it was said to be improper to repeal it. At the last session, when a motion was made to repeal the second section of the act, the law was then supported on this reason, to prevent the operation of the common law, and to afford the gentlemen themselves the liberty of expressing their sentiments, if founded in truth, and expressed with decency; and so it is that the friends of order and good government now want the Sedition law to protect themselves.

If the common law is actually in force, it is rather extraordinary that gentlemen will not make the law uniform, so as to comprehend all the cases of libels which it is pretended would be

cognizable in the Federal courts under that law, if this was not in force. A libel upon the President of the United States, the Senate, or this House, is not to be actionable at common law; but suppose a person to libel the Supreme Court of the United States, he is not to be punished under this act, but at common law. A court can as easily be libelled as any department of the Government; where, then, is the necessity or reason for inflicting the punishments for the same crime, under two laws, so different, if the common law is really in force in the United States?

It has been said, by publishing calumny and falsehood, Government may be destroyed. This Mr. MACON did not believe, nor did he believe that ever a Government was destroyed or a revolution brought about by such means. Falsehood cannot make a good administration bad, or a bad administration good. No administration need ever fear false publications, it can always destroy their effects whenever it pleases by publishing the truth, and truth alone can destroy Governments; nor need any administration fear anything but the truth. Was our Revolution brought about by the publication of a falsehood? No, sir, it was not; it was by publishing and proclaiming the truth. As to the execution of the law, it would be needless to state the facts which have been stated by others; he would only say that, in his opinion, it was worse than the law itself, which he had always believed to be unconstitutional; and there was no doubt but the execution was as unpopular as the law.

It has been said, owing to the prevalence of crimes, which this law is intended to punish, that men grown grey in the service of their country, had been turned out of office. Mr. M. knew of no man that had been turned out of office, except it was done according to the Constitution, or a law made in conformity to it. What, sir, was this law made and is it now wished to be continued in force, to prevent the freedom of elections! If this is not the plain result of the idea, I am at a loss to know what it does mean. Are not our elections to be free? Have we not a right to investigate the characters of those who are candidates for our suffrages? Are not these our Constitutional rights as freemen? Why then do gentlemen wish to continue this law in force to deprive the people of their dearest rights? Surely if men are not approved, after they have been tried, they ought to be turned out of office; the end of elections is choice. But we have been told, to induce us to continue this law, that the illustrious WASHINGTON had been called a speculator and a murderer. Mr. M. never heard of the first charge before this day, nor of the second till within a few days past, and that, too, was in this House. He had no doubt but the gentlemen had heard what they asserted, nor had he any doubt but the person who first pronounced the report knew it was not true; and its circulation must have been very confined indeed, and so it will be with all such reports.

Mr. M. said he saw no necessity for this law; a good character does not want its support, and a bad character does not deserve help. He believed the Senate would not agree to renew this law for

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themselves; no future President, he expected, would wish it for himself; what, then, do we want it for ourselves? No gentleman will say that he wished a sedition law to stop the people's mouth about him, or anything he should do in this House. The gentlemen who support this act, have always told us that their actions were founded on such principles, that they should never be ashamed of them anywhere. Let us be free to act for the good of the people, and let the people be equally free to examine our conduct in any manner they may think proper. Gentlemen do not mean to do any act which should make this law necessary; why then continue it in force? We have been told by a gentleman that he heretofore voted for this law, and that therefore he should vote for it again. Surely there cannot be a worse reason for a vote than this; it goes on the principle of never changing, and if a law be once passed, it must remain a law forever. The same gentleman once voted for an army, yet we found him ready, on a fit occasion, to vote for the discharge of that army, and that army too was considered a part of the system of defence; if the army could be spared from the general system formerly adopted, there certainly could be no necessity for this law, at this time, unless indeed it is now wanted for some other purpose than formerly. The same reason ought to have continued the army; but as the army was disbanded, when the necessity ceased for which it was raised, and the system of defence broken, why then should the law be continued as a part of that system, when there was no occasion for it?

It has been said, that a part of this House are always crying out against the unconstitutionality of every act they do not approve. The answer to this is very easy. There is another part of the House that never questions the constitutionality of anything; and if one part questions the constitutionality of everything, the other does not of anything; one side believes it has limits, the other believes it has no limits.

Mr. M. observed, as to what had been said on the subject of juries, he would only say, that no Federal jury had ever been got in the State in which he lived, in the same manner that jurors were obtained for the State courts; perhaps it was impossible, under present circumstances, because all the jurors for both superior and inferior courts were appointed by the county courts and then summoned by the sheriff of the county. The Federal court, he believed, in that State, generally determined from which counties the jurors should be summoned, and left it to the discretion of the marshal to summon whom he pleased. The marshal is appointed by the President; in States where he summons whom he pleases for jurors, it is most probable they will all be of one party.

Another reason had been urged for continuing this law in force, which is this, that it was believed there were newspapers in this country under the influence of a foreign Power. Whether this was a fact or not, he did not know; but he well recollected that not long since there was a press in the United States, which was pretty much caressed, the editor of which was a foreigner, who gloried in be-

ing the subject of a foreign Prince; the contents of his paper are not yet forgotten, and, strange to tell, he never heard that this law had been put in operation against that person.

It is not pretended that the next President, let him be who he may, will want this law. No action for a libel has ever been brought at common law in the Federal courts; the reason was obvious, the States as united have no such law, whatever they may have in their individual character. Without this act, or the operation of the common law, we had flourished for many years. The law would hereafter be useless, it was unpopular and believed to be unconstitutional. It would increase rather than lessen party spirit, and it ought to be the object of all to harmonize as much as possible. He therefore trusted that the law would be suffered to expire, never again to be renewed.

Mr. DENNIS.—Like the gentleman from North Carolina, who has this moment resumed his seat, I was one of those who were satisfied to have taken a silent vote on the question before us; and on yesterday voted against the rising of the Committee, in order that a definitive decision might have taken place; but since the gentlemen opposed to the continuance of the law have determined to protract the debate, and since it is probable this day will be consumed in the discussion, I shall claim the indulgence of the Committee, whilst I submit some sentiments on the occasion. During this discussion, I have remarked that observations on the constitutionality of the law have generally been avoided, yet that some objections have been interspersed of that nature among the arguments against its expediency; while, therefore, I do not intend an analytical review of all the opinions which have hitherto been advanced, either in favor of or against its constitutionality, the remarks which I shall make will occasionally apply as well to the one as to the other. Those gentlemen who have distinguished themselves by their opposition to this law, have laid down the following standard by which to test the extent of Congressional power relative to this subject: First. That Congress can exercise no powers but such as are specifically delegated by the Constitution, or such as are incidental and necessary to the execution of those specific powers. Secondly. Admitting Congress to have originally possessed the power of passing laws similar to the present, they have been restricted therefrom by the prohibitory amendment of the Constitution, which, among other things, declares that Congress shall pass no law abridging the liberty of the press. In relation to the first branch of the subject, even the gentleman from Pennsylvania, (Mr. GALLATIN,) does not insist that there exists in us no such thing as incidental power, nor does he contend that we can exercise no power but such as we can find expressly mentioned in the Constitution; but while he admits the existence of incidental authority, he requires that we shall demonstrate the impossibility of preserving the Government, or giving efficacy to those duties which it is enjoined upon us to perform, without exercising the power in the present instance. And how will this

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gentlemen expect this to be proved? Are we to prove it by actual experiment? Are we to sit still and suffer the Government to be subverted, in order that we may experimentally prove the powers we may exercise, in order to preserve it? Doctrines similar to these were inculcated with considerable gravity during the first insurrection in Pennsylvania. It was then contended that the President could not call out the militia to suppress the insurrection, until it should be fully proved by actual experiment that the ordinary powers of the Judiciary were incompetent to suppress it. That is, that although it was evident, from the number and the preparations for resistance by the insurgents, they could not be subjected to the ordinary powers of the Judiciary, yet the militia could not be drawn out until the marshal and his *posse comitatus* had been first murdered or imprisoned. This sophistry, however, did not then pass for argument, and I hope will not in the case before us. To candid minds it would seem sufficient to show, that the publication of false, scandalous, and malicious matter against the Government, in its immediate consequences, tends to produce insurrection and a total disrespect for its authority; and that, without the power of preventing these, no Government can exist. And will it, sir, be contended that such publications have not this effect? Let me suppose Congress to have passed some important law, which should peculiarly interest the people and meet the disapprobation of certain sections of the Union; and let me suppose a printer, in order to increase their discontents, to publish a very circumstantial, but false and malicious account of his having evidence that such law was passed by the bribery and corruption of a certain foreign Minister, mentioning the sum which each member had received; would not the law, in case these reports were credited, be resisted in its execution? Yes, a high-minded Republican people would and ought to resist it, while under such impressions. Sir, there is no crime which will not be sanctioned by this new doctrine of the liberty of the press: Treason itself may be committed with impunity, if such principles be established. According to the construction which by some is affixed to the amendment to the Constitution, Congress can make no law in any manner affecting the press, because they say every such law must amount to an abridgment thereof. Let me suppose our country at war, and a hostile fleet upon our coast, and that a number of hand-bills be printed and circulated in this fleet, giving particular information of the most vulnerable part of our territory, and of the deposits of our military stores; this, if done by letter, or verbally, would amount to treason, yet if the press be inviolable to the extent contended for, no punishment could reach the crime. It has been frequently remarked, that there exist in a statutory code a number of crimes, the power of creating which rests upon precisely the same basis as the law which is the subject of discussion; and yet no objections have ever been made to their constitutionality. Such are the crimes of perjury, bribery, falsifying the public

records, and misprision of treason; for creating these crimes no express provision is made in the Constitution; and if we were, agreeably to the position of the gentleman from Pennsylvania, obliged to show, in the manner he contends for, that without such laws our Government could not be preserved, we should be obliged to yield the point of their unconstitutionality.

I shall now proceed to examine this law, as it is supposed to be prohibited by the 3d amendment to the Constitution, which stipulates against abridging the freedom of the press; and believing it to have grown into a maxim with many gentlemen of this Committee, that the State of Virginia can do no wrong, and that the seal of infallibility is stamped upon her Legislative acts, I shall bring into view a clause in her Declaration of Rights on the subject of the press, and certain Legislative acts, and then compare both with the 3d amendment to the Constitution of the United States, and the law now under consideration; and if it shall be found that the Declaration of Rights of Virginia has provided as strongly for the liberty of the press as the amendment to the Federal Constitution, and that certain Legislative acts of that State have gone as far to punish its licentiousness, as the law now proposed to be continued, it will then be proper to inquire, what are the exclusive prerogatives which have absolved their Legislature from the obligation to which they have so strenuously contended, the Legislature of the Union are bound to yield obedience? And in answer to their representations, we may say, take the beam out of your own eyes, before you undertake to pluck the mote out of ours. By the 12th article of the Declaration of Rights of Virginia, it is provided: "That the liberty of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic Governments." It is believed that this expression does not substantially vary from the amendment of the Constitution, which says, among other things, "that Congress shall make no law abridging the freedom of speech or of the press." By an act of Assembly of the Commonwealth of Virginia, passed in 1775, it is provided as follows:

"SEC. 1. Whereas, at the present time of danger, the safety of the people more especially requires that all persons who are so wicked as to devise the destruction of good government, or to obstruct the operations of the laws, should suffer punishments suitable to their crimes;

"Be it therefore enacted, &c., That if any person residing or being within the Commonwealth, shall, from and after the publication hereof, by any word, open deed, or act, advisedly and willingly maintain and defend the authority, jurisdiction, or power of the King and Parliament of Great Britain, heretofore claimed or exercised within this Colony, or shall attribute any such authority, jurisdiction, or power, to the King or Parliament of Great Britain, the person so offending being legally convicted thereof, shall be punished by fine and imprisonment, to be ascertained by a jury, so that the fine exceed not the sum of twenty thousand pounds, nor the imprisonment the term of five years.

"SEC. 2. And be it enacted, &c., That any person who shall maliciously, or advisedly, endeavor to excite

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the people to resist the government of this Commonwealth, as by law is established, or to persuade them to return to a dependence upon the Crown of Great Britain, or who shall maliciously or advisedly terrify and discourage the people from enlisting in the service of the Commonwealth, or dispose them to favor the enemy, every person so offending, and being legally convicted thereof, shall be punished with fine and imprisonment as aforesaid."

It is not my intention to comment at large on this law, but have stated it as a fact upon which each member of the Committee will indulge his own sentiments and opinions. I will, however, state that this act goes further than the act of Congress; since it not only punishes libellous publications, but also inflicts a punishment far exceeding that contained in the Sedition act, for verbal communications, and touches not only the liberty of the press, but the liberty of speech likewise. If the high sentiments of liberty, which animated the people of Virginia, during our Revolution, did not induce them to believe that when their Legislature had provided for the punishment of slanderous, libellous, and malicious publications against their Government, their liberties were thereby destroyed, I flatter myself that these same people, with their fellow-citizens of the United States, will not now be duped into the opinion that an act of Congress, which punishes such false, scandalous, and malicious publications against their Government, with an intent to vilify, degrade, and subvert its authority, is tyrannical and oppressive.

By another act of the Assembly of Virginia, originally passed 1661, and re-enacted in 1792, entitled "An act against divulgers of false news," it is provided as follows:

"Whereas many idle and busy-headed people do forge and divulge false rumors and reports:

"Be it therefore enacted, &c., That what person or persons soever, shall forge or divulge false rumors or reports, tending to the trouble of the country, he shall be, by the next justice of the peace, sent for and bound over to the next county court, where, if he produce not his author, he shall be fined two thousand pounds of tobacco, (or less, if the court think proper to lessen it,) and besides give bond for his behaviour, if it appear to the court that he did maliciously publish or invent it."

By another act of the same State, passed in 1785, entitled "An act punishing certain offences and vesting the Governor with certain powers," in the third section, it is enacted, "that every person who shall attempt to establish such Government, (meaning a division of Virginia, and the establishment of another State therein,) by any other means than with the assent of the Legislature of this Commonwealth, and in pursuance of such attempts, shall join with another person or persons in any overt act for promoting such attempts, or who shall, by writing or advisedly speaking, endeavor to instigate the people of this Commonwealth to erect or establish such Government, without such assent as aforesaid, shall be adjudged guilty of a high crime or misdemeanor, and, on conviction, shall be subject to such pains and penalties, not extending to life or member, as

'the court before whom the conviction shall be, shall adjudge."

Such, sir, are the Legislative acts, and such the Bill of Rights of the State of Virginia. Perhaps the gentlemen in the opposition may yield to these high authorities, when reason and argument have ceased to operate. There is no man who will contend, that if the Sedition act be a violation of the amendment of the Constitution, these several acts of the Virginia Assembly are not equally infractions of their Bill of Rights. But it is my opinion that, in the formation of these laws, neither the one nor the other have transcended the limits of their respective charters. But these acts of Virginia prove, as far as any Legislative interpretation can prove, that, by the term liberty of the press, is not to be understood an entire exemption from all responsibility for slanderous and libellous publications, and perfectly confirm the idea annexed to it by the friends to the act in question. If, however, it may be found that these authorities have no influence on our opponents, let me resort to the opinions of certain great and prominent characters, who concentrate, perhaps, more than any others, the confidence and attachment of the citizens of Virginia, and to whose political opinions, on all other occasions, these gentlemen have yielded a ready obedience. Soon after the Declaration of Independence, the State of Virginia, finding it necessary to change her laws so as to adapt them to the new political situation which she had assumed, appointed a committee with plenary powers to that effect; among these gentlemen were the present Chancellor of the State, (Mr. Whyte,) the President of the Court of Appeals, (Mr. Pendleton,) and the now Vice President of the United States, who entered upon the duties assigned them; and among a great variety of bills which they presented, was one entitled an act regulating proceedings in the courts of common law, in which is contained the following clause:

"In an indictment or information for a libel, the defendant may plead a justification, and if the jury find the fact contained in the libel to be true, he shall be acquitted."

In the draught of a Constitution, which was prepared by Mr. Jefferson, to be submitted to a Convention intended to be called by the State of Virginia, in 1783, are the following expressions:

"Printing presses shall be subject to no other restraints than to liahleness for false facts printed and published."

It will be recollected that, at the time of the ratification of the Federal Constitution, Mr. Jefferson was our Minister in France; on being informed of its ratification, in a letter to his correspondent here, dated Paris, July 31, 1788, after expressing his satisfaction at the event, he proceeds to give his opinion in favor of adding to the Constitution a Bill of Rights, and, among others, of stipulating for the freedom of the press. In this letter are contained these expressions:

"A declaration that the Federal Government will never restrain the presses from printing what they

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please, will not take away the liability of printers for false facts printed. The declaration that religious faith shall be unpunished does not give impunity to criminal acts, dictated by religious error."

After the third amendment before mentioned, in relation to the press, was proposed to be added to the Constitution, and sent by his correspondent to Mr. Jefferson, in a letter dated Paris, August 28, 1789, Mr. Jefferson says:

"I like it as far as it goes, but I should be for going further; for instance, the following alterations and additions would have pleased me: Article 4. 'The people shall not be deprived of the right to speak, to write, or otherwise publish anything but false facts, affecting injuriously the life, liberty, property, or reputation of others, or affecting the peace of the Confederacy with foreign nations.'"

[Here Mr. NICHOLAS interrupted Mr. DENNIS, by asking him the title of the book from which he read the above extracts.]

Mr. DENNIS replied that the book which he held in his hand was a collection of the publications on the Alien and Sedition law, and that the above extracts were taken from one of the pamphlets composing the collection, published at Richmond, in 1798. That, with respect to the authenticity of the extracts, he (Mr. D.) had compared them with the publication of Mr. Jefferson's letters, which appeared in *Freneau's Gazette*, in 1791, and which were then published by Mr. Jefferson's friend, in order to vindicate him against charges of hostility to the Federal Government, and he knew them to be correct.

Mr. D. then proceeded: Such, Mr. Chairman, are the opinions of these learned jurists, of these enlightened expositors of political law. Very different, indeed, from this new doctrine, that it is impossible to restrain the licentiousness, without destroying the liberty of the press. These gentlemen have everywhere discriminated between them, and Mr. Jefferson's letters admit all that is contended for by us. They clearly admit that, before the amendment was superadded to the Constitution, Congress had the power of legislating relative to the press, and that after the amendment was adopted, although they were very properly deprived of the power of imposing previous restrictions thereon, they have a right to punish the authors of false and malicious publications. These documents prove to me, too, that the opposition to this law has not been so much the result of a sense of its unconstitutionality or inexpediency, as of the conviction, that it would be a powerful weapon in the hands of a party whereby to combat their political opponents.

Having said thus much relative to Virginia, forasmuch as the most general opposition to this act has proceeded from thence and the State of Pennsylvania, I shall now claim the attention of the Committee to the 7th section of the 9th article of the constitution of the latter State, which is in these words:

"That the printing presses shall be free to every person, who undertakes to examine the proceedings of the Legislature, or any branch of Government; and no law shall ever be made to restrain the right thereof. The

free communication of thoughts and opinions is one of the invaluable rights of man; and every citizen may freely speak, write and print on any subject, being responsible for the abuse of that liberty. In prosecutions for the publication of papers, investigating the official conduct of officers, or men in public capacity, or where the matter published is proper for public information, the truth thereof may be given in evidence. And in all indictments for libels, the jury shall have a right to determine the law and the facts under the direction of the courts in other cases."

Does this article comport with the arguments so much insisted on, in the course of this discussion, that it is in vain that we attempt to distinguish between the liberty and licentiousness of the press? It was not from a representative of Pennsylvania, (Mr. GALLATIN) that I expected such declarations; because, in making them, he sets his own wisdom above the wisdom of the constitution of his State. That constitution emphatically declares the liberty of the press to be among the palladia of the most important rights of its citizens, but at the same time explains itself by declaring, that it does not mean to tolerate every species of licentious abuse and defamation, either of a private citizen, or of a man in his official station. There is one more topic in relation to the State of Pennsylvania, upon which I wish to revive the recollection of the Committee; and this is upon the charge delivered by the then Chief Justice of that State, to the Grand Jury, relative to a supposed libel, by William Cobbett, on the memory of Doctor Franklin and His Spanish Majesty's Minister. In this charge there was a very able and elaborate dissertation on the liberty of the press, which, he informed the jury, by no means implied an exemption from punishment for the propagating of falsehood; and he concurred with Justice Blackstone and other elementary writers, that to punish the licentiousness was essential to the liberty of the press. He therein most pathetically deplored the unbounded licentiousness of the American press, which far exceeded that of any other nation; that neither the innocence of youth nor the well-earned reputation of a life devoted to virtue and public service, nor the peace of families, were unassailed by the unprincipled and slanderous publications issuing daily from the press. Now, this same gentleman has since been promoted to the chief executive magistracy of the State, by those very characters who have been so clamorous against this law. Hence I infer, either they have not duly attended to its contents, or that since the exhibition of their petitions against it there has been a revolution in their opinions, and therefore shall deny the fact which has been assumed, that there is a majority of them, or of the people of the United States, opposed to the act. After all, Mr. Chairman, I must believe that this right, claimed so loudly on behalf of the people, is intended only for the security of a few renegades, who have gotten our presses into their hands, and who only expect to make the impressions which they wish for through the medium of falsehood and malignity. I never can believe that the people of the United States can connive at such publications, against a Government which has been.

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erected by their own hands and with which they are themselves perfectly assimilated in interests, and which cannot be aspersed without participating of such aspersion themselves. Nor can I believe that the people of Pennsylvania will think it a high crime to libel the memory of Dr. Franklin or the Minister of a foreign Potentate, and no crime to vilify and degrade the Government of the United States. Whilst every other man, however exalted his rank or station may be, is amenable to the law, shall the printers and authors of false and malicious publications alone be irresponsible? These characters are the authors of insurrections; the President may call out the militia to suppress them, and the deluded victims are to be brought to punishment, whilst the authors of slanderous publications, who have caused the mischief, rest in perfect security, surrounded by the inviolability of the press. I will, Mr. Chairman, no longer trespass on the patience of the Committee; my principal object was to bring into view the different documents to which I have referred, with the hope that they might have some influence upon some gentlemen of the Committee, or at least render them less positive in their opposition than they heretofore have been.

Mr. LYON.—In the course of the debate on the present motion my condemnation and imprisonment have been introduced by a gentleman whom I highly respect, but without many of the agitations which belonged to that very extraordinary case. A number of gentlemen have told the Committee that they would avoid the discussion of my case in compliment to my feelings—every one of whom, except the gentleman from South Carolina, have done their utmost to wound those feelings. But I can tell those gentlemen it is now too late; I do not thank them for their pretended tenderness; they have heretofore lacerated those feelings by their irritating and abusive language, until I have become perfectly callous to anything that can come from that quarter. I do not think by any means that they should go round my case out of delicacy to me—rather let them defend the indicting me under the Sedition law, for writing and publishing a letter, dated the 20th June, and sent about that time by me to the post office of Philadelphia, which carried the post marks of Philadelphia, July 7th, seven days before the law passed! Let them defend the Judge who refused me a challenge of the jurors, and falsely told me that in a similar case I should not be entitled to a challenge on the jury in the courts of the State where I then lived. This, I say, was false, because there is in Vermont, among the criminal code, a law against defaming courts, &c., which allows the defendant to challenge six of the jury-list without showing any cause! Let them defend the Judge in charging the jury to find me guilty of malicious intentions, on the ground of my known political principles; my opposition in Congress to the Executive, where there was no proof whatever against me of such principles. Here permit me to observe that those who are opposed to the new Administration, have more faith than I have in the Judges, with respect to their attach-

ment to the party they belong to: for my part, after the change in the Administration, in case the law is continued, I have no doubt but Judges may be found who would charge the jury, as in my case, to look to the political principles and conduct of the defendant, and so turn the tables upon them. Had I, therefore, a wish for revenge, I would vote for the bill. I fear no danger from it; I have faith in the new Administration; I shall have no desire to write concerning them, and I now reside in a country where there is no danger of political persecution.*

I must now beg leave to refer to the charge for which I suffered. It consisted of three counts; the first, for having maliciously &c., with intent, &c., written at Philadelphia a letter dated the 20th of June, and published the same at Windsor, in the newspaper called the *Vermont Journal*, containing the words following: "As to the Executive, when I shall see the efforts of that power bent on the promotion of the comfort, the happiness, and the accommodation of the people, that Executive shall have my zealous and uniform support; but whenever I shall, on the part of the Executive, see every consideration of the public welfare swallowed up in a continual grasp for power, in an unbounded thirst for ridiculous pomp, foolish adulation and selfish avarice; when I shall behold men of real merit daily turned out of office, for no other cause but independency of sentiment; when I shall see men of firmness, years, merit, abilities, and experience, discarded in their applications for office, for fear they possess that independence, and men of meanness preferred, for the ease with which they take up and advocate opinions, the consequence of which they know but little of; when I see the sacred name of religion employed as a State engine, to make mankind hate and persecute each other, I shall not be their humble advocate."

The second count consisted of my having maliciously, &c., with intent, &c., published a letter, said to be a letter from a diplomatic character in France, containing two paragraphs in the words following: "The misunderstanding between the two Governments (France and America) has become extremely alarming; confidence is completely destroyed; mistrust, jealousy, and a disposition to wrong attribution of motives, are so apparent as to require the utmost caution in every word and action that are to come from your Executive; I mean if your object is to avoid hostilities. Had this truth been understood with you before the recall of Monroe; before the coming and second coming of Pinckney; had it guided the pens that wrought the bullying speech of your President, and stupid answer of your Senate, at the opening of Congress in November last, I should probably have had no occasion to address you this letter."

"But when we found him borrowing the language of Edmund Burke, and telling the world, that although he should succeed in treating with the French, there was no dependence to be placed

* Kentucky.

in any of their engagements; that their religion and morality were at an end; that they had turned pirates and plunderers, and it would be necessary to be perpetually armed against them, though you were at peace, we wondered that the answer of both Houses had not been an order to send him to a mad-house. Instead of this the Senate have echoed the speech with more servility than ever George the Third experienced from either House of Parliament."

The third count was for aiding and abetting, &c., in publishing the same.

Again. Let those gentlemen justify the Judge in sending a man from the jury, because a creature of a party swore that, at a previous time, he had heard that juror say something like this: that it was his belief that Mr. L. would not be found guilty. This was a man who was summoned through mistake, and without a thorough knowledge of his political principles, and it was necessary to get rid of him some way or other. Let them defend the conduct of the Judge who, in his charge, in order to exasperate the jury against me, descended to degrade his office so much as to tell them I was guilty of forging the writing called "Barlow's letter." "Let," said the Judge, "men of letters read that letter and compare it with Barlow's writings, and they will pronounce it to be none of his!" Let those gentlemen defend the marshal in carrying me, in the most contumelious and degrading manner, upwards of forty miles from the door of the jail of the county where I lived, which is a jail of the United States. Let them defend that marshal for throwing me into a stinking cell of about ten feet by sixteen, the common receptacle of thieves, murderers, and runaway negroes, without anything to keep the cold out where the light came in, and keeping me there four months, nearly one month of which without fire, not having the liberty to procure myself a stove, although in a cold inclement season, whilst the house contained comfortable rooms in plenty, which I could have hired had I been allowed to do it; but he refused notwithstanding my application to him, and the entreaties of several of my friends, offering a security of \$100,000 bail for my continuance in the appointed room during the time of my confinement.

Unless gentlemen can defend these things let them speak no more of the superiority of this law over the common law, nor vindicate it upon the limits of its punishment being assigned, the contrary of which I think my experience abundantly proved.

When Mr. LYON had concluded, the question was taken on agreeing to the resolution, and it was determined in the affirmative by the casting vote of the Chairman, the Committee being equally divided. The Committee rose, and reported the resolution as agreed to. The House then took up the resolution as reported, and on the question will the House agree to the same, it was determined in the affirmative by the vote of the Speaker, there being 48 for it and 48 against it, as follows:

YEAS—Bailey Bartlett, James A. Bayard, John Bird,

John Brown, Christopher G. Champlin, William Cooper, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Archibald Henderson, William H. Hill, James H. Imlay, John Wilkes Kittera, Henry Lee, Silas Lee, Lewis R. Morris, Harrison G. Otis, Robert Page, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, Nathan Read, John Rutledge, William Shepard, John C. Smith, James Sheafe, Samuel Tenney, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

NAYS—Willis Alston, Theodorus Bailey, Phaniel Bishop, Robert Brown, Gabriel Christie, Matthew Clay, William Charles Cole Claiborne, John Condit, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, Albert Gallatin, Samuel Goode, Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, Benjamin Huger, George Jackson, Aaron Kitchell, Michael Leib, Matthew Lyon, James Lynn, Nathaniel Macon, Peter Muhlenburg, Anthony New, John Nicholas, Joseph H. Nicholson, Abraham Nott, Josiah Parker, John Randolph, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

MONDAY, January 26.

Several other members, to wit: from Kentucky, JOHN FOWLER; from Virginia, SAMUEL J. CABELL; and from New York, EDWARD LIVINGSTON; appeared and took their seats in the House.

A memorial of sundry freeholders and inhabitants of the town of Alexandria, in the District of Columbia, was presented to the House and read, praying that Congress may establish a system of legislation and government for the said District.

Ordered, That the said memorial be referred to the Committee of the whole House to whom is committed the bill for the government of the District of Columbia.

A memorial of sundry mechanics and manufacturers of the city of New York was presented to the House and read, praying that the attention of Congress may be directed to the encouragement and support of the manufacturing and mechanic arts within the United States.

Ordered, That the said memorial be referred to the Committee of Commerce and Manufactures.

Mr. NOTT, from the committee appointed, presented a bill to cede to the State of South Carolina certain lands therein mentioned; which was read twice and committed to a Committee of the whole House to-morrow.

On motion, it was

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire whether any, and, if any, what, amendments are necessary to be made in the acts for the relief of sick and disabled seamen, and that the said com-

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mittee have leave to report thereon by bill, or otherwise.

The House then went into a Committee of the Whole on the bill regulating the grants of land appropriated for the refugees from the British provinces of Canada and Nova Scotia; and made several amendments thereto: which were agreed to by the House, and the bill was ordered to be engrossed, and read the third time to-morrow.

On motion it was

Resolved, That a committee be appointed to inquire whether it be necessary to ascertain the northwardly boundary line of the tract of land in the Territory of the United States Northwest of the Ohio, reserved by the State of Virginia for satisfying the bounty rights of the officers and soldiers of the Virginia line on the Continental establishment, and that the said committee be empowered to report thereon by bill or otherwise.

Ordered, That Mr. BIRD, Mr. McMILLAN, and Mr. VARNUM, be appointed a committee, pursuant to the said resolution.

The House went into a Committee of the whole House on the bill to discharge Samuel Lewis, senior, from his imprisonment; and no amendment being made thereto, the bill was ordered to be read the third time to-morrow.

Mr. PLATT, from the Committee of Revision and Unfinished Business, to whom it was referred to examine and report what laws have expired, or are near expiring, and require to be revived or further continued, made a report, in part; which was read and considered: Whereupon,

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of continuing the act, entitled "An act further to suspend the commercial intercourse between the United States and France, and the dependencies thereof," passed the twenty-seventh day of February, one thousand eight hundred; and that the said committee be authorized to report thereon by bill or otherwise.

The House resolved itself into a Committee of the Whole on the report of the Committee of Claims, to whom was recommended, on the fifteenth instant, the report of the said committee on the petition of James Clark; and, after some time spent therein, the Committee rose and reported a resolution thereupon; which was twice read, and agreed to by the House, as follows:

Resolved, That the prayer of the petition of the said James Clark cannot be granted.

The House went into a Committee of the Whole on the bill to allow the transportation of goods, wares, and merchandise, to and from Philadelphia and Baltimore, by the way of Appoquinimink and Sassafras; and, no amendment being made thereto, it was ordered that the bill be engrossed, and read the third time to-morrow.

TUESDAY, January 27.

An engrossed bill to allow the transportation of goods, wares, and merchandise, to and from Philadelphia and Baltimore, by the way of Appoqui-

nimink and Sassafras, was read the third time, and passed.

An engrossed bill regulating the grants of land appropriated for the refugees from the British provinces of Canada and Nova Scotia was read the third time and passed.

Resolved, That a committee be appointed to inquire into the expenditure of money made by the Commissioners of the City of Washington; the disposition of public property made by them; and, generally, into all the transactions of the Commissioners which relate to the execution of the trust confided to them by the President of the United States; and that the committee report thereon to the House.

Ordered, That Mr. GRISWOLD, Mr. WALN, Mr. SHEAFE, Mr. NOTT, and Mr. HENDERSON, be appointed a committee, pursuant to the said resolution.

On motion of Mr. GREGG, that it be

Resolved, That a committee be appointed to inquire into the expediency of amending the act, entitled "An act, supplementary to, and to amend the act, entitled an act to establish an uniform rule of naturalization, and to repeal the law heretofore passed on that subject, so as to admit aliens who were resident within the limits, and under the jurisdiction of the United States, prior to the 29th day of January, 1795, and who have continued to reside as aforesaid, to become citizens of the United States:"

The resolution was ordered to lie on the table.

The House resolved itself into a Committee of the Whole on the resolution reported by the Committee of Ways and Means, that it would be inexpedient to repeal the act, entitled, "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves. This resolution produced a lengthy debate, rather of a desultory nature, in which Messrs. GRISWOLD, BAYARD, DANA, CHAMPLIN, COOPER, NICHOLSON, HARPER, VARNUM, and GALLATIN, took part.

The Committee rose without coming to a decision on this resolution, and were then refused liberty to sit again. A resolution having the repeal of that law for its object was referred to the Committee of Ways and Means with instructions to report a bill for that purpose.

SAMUEL LEWIS.

An engrossed bill to discharge Samuel Lewis, senior, from his imprisonment, was read the third time; and on the question that the same do pass it was resolved in the affirmative—yeas 67, nays 13, as follows:

YEAS—Willis Alston, George Baer, Phanuel Bishop, John Brown, Robert Brown, Christopher G. Champlin, Gabriel Christie, William C. C. Claiborne, William Cooper, William Craik, Samuel W. Dana, John Davenport, John Dawson, John Dennis, George Dent, Joseph Dickson, William Edmond, Joseph Eggleston, Abiel Foster, John Fowler, Albert Gallatin, Henry Glen, Samuel Goode, Chauncey Goodrich, Elizur Goodrich, Andrew Gregg, Roger Griswold, John A. Hanna, Robert Goodloe Harper, Joseph Heister, Archibald Henderson, David Holmes, John Wilkes Kittera, Michael Lieb, James Lynn, Edward Livingston, Lewis R. Morris, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, Abraham Nott, Harrison G. Otis,

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Robert Page, Josiah Parker, Thomas Pinckney, Jonas Platt, John Reed, Nathan Read, John Rutledge, William Shepard, John Smilie, John C. Smith, Richard Dobbs Spaight, Richard Stanford, James Sheafe, Benjamin Taliaferro, Samuel Tenney, George Thatcher, Richard Thomas, John Thompson, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Peleg Wadsworth, Robert Waln, and Robert Williams.

NAYS—John Bird, Samuel J. Cabell, Mathew Clay, Lucas Elmendorf, Edwin Gray, George Jackson, Aaron Kitchell, Henry Lee, Nathaniel Macon, John Randolph, John Smith, Thomas Sumter, and Abram Trigg.

WEDNESDAY, January 28.

Mr. HARPER, from the committee appointed, presented, a bill to amend and to continue in force the act, entitled "An act to establish a uniform system of bankruptcy throughout the United States;" which was read twice and committed to a Committee of the whole House on Friday next.

On motion, it was

Resolved, That the Committee of Commerce and Manufactures be instructed to consider whether any, and what, alterations are expedient in the rates of estimating foreign coins and currencies; with leave to report by bill, or otherwise.

The House then went into a Committee of the Whole on the bill giving a right of pre-emption to certain persons who have contracted with John Cleves Symmes, or his associates, for lands lying between the Miami rivers, in the Territory of the United States Northwest of the Ohio; and after considering the same the Committee rose, without coming to a decision, and had leave to sit again.

EXAMINATION OF THE TREASURY.

Mr. OTIS, from the committee to whom was referred, on the 25th of November last, the letter of the Secretary of the Treasury, announcing his resignation; which committee was instructed, on the second ultimo, to examine into the state of the Department of the Treasury; into the mode of conducting the business thereof; and into the expenditure of public money; and to report to this House such facts and statements as may conduce to a full understanding of the transactions of the Treasury, since the same has been under the superintendence of the officers now at the head of that Department, made a report; which was read, as follows:

The committee to whom was referred the letter from the late Secretary of the Treasury, of the 22d of November last, report:

First: In relation to the general state of the Department, and the mode of directing the business thereof:

On the 22d day of May in the year 1794, a report was made to the House of Representatives, by a committee appointed to examine the state of the Treasury; in which the manner of conducting the business of the Department was detailed with great accuracy, the duties of the various officers and their mutual checks upon each other, explained; and the rules and proceedings observed in the collection, keeping, and disbursement of the public moneys, and in accounting for the same, described with minute precision. It does not appear that any objection has ever been made to the

forms of doing business specified in that report, or that the committee, after a most ample and elaborate investigation of the regulations adopted in the Department, entertained doubts of the judicious and competent nature of the arrangement and distribution of the powers and duties of the officers. The attention of the present committee was, in the first instance, occupied in comparing the present forms of proceeding at the Treasury, with those heretofore exhibited; and, upon a careful examination, they are satisfied that, while the principles of that system have been maintained and matured, a close adherence to established usage has been observed; and that the Department itself is so organized by law, and the mode of doing the business is so devised, as to afford the most perfect security to the nation, from the misapplication of the public moneys.

These moneys do not, in any instance, pass through the hands of the Secretary of the Treasury; he merely authorizes the receipts and disbursements, by warrants in favor of and upon the Treasurer. These warrants are all signed by the Secretary, countersigned by the Comptroller, and registered by the Register. The Treasurer is the medium of the receipts and disbursements of the public moneys. Those who collect these moneys can only discharge themselves by warrants in favor of the Treasurer. The Treasurer can only obtain credit for payments from the Treasury by warrants on himself. All moneys received by the Treasurer are deposited by him in the Bank of the United States, and other banks; and the actual amount of moneys in the custody of the Treasurer, may be at any time ascertained, independently of his own returns, by the statements which are constantly made and transmitted to the Secretary, by those who collect and receive public moneys into their custody, in the different parts of the Union. His accounts must be rendered quarterly, and oftener if required, to the Comptroller, and annually to Congress.

Secondly: In relation to receipts and expenditures:

It is the uniform course of business at the Treasury, immediately after the close of each session of Congress, to enter in a book kept for that purpose in the office of the Secretary, the various objects for which appropriations of money have been made by law, and to credit each head with the whole amount of the sums appropriated to it. The same proceeding is observed in the offices of the Comptroller and Register. No disbursements are made by the Treasury, but in pursuance of laws authorizing the expense; and all warrants for the disbursement of moneys are forthwith entered to the debit of their respective heads of appropriation. These books are open to the daily inspection and revision of the officers of the Department; and, by means thereof, the expenditures may be promptly compared with the appropriations. In no instance does it appear to the committee that the expenditures have exceeded the legal appropriations. They have not, however, presumed it to be within the meaning of their instructions, that they should exhibit a detailed statement of the receipts and expenditures at the Treasury. For these they refer to the annual and other periodical statements, which are enjoined by law, and which have been regularly submitted to Congress; and, especially, to a report of the committee of the House of Representatives, of the 8th of May last; in which the sum total of the receipts and expenditures of the present Government, from its commencement to the end of the year 1799, is exhibited at one view.

By the constitution of the Treasury Department, the

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Secretary superintends the collection of the revenue, and grants all warrants for moneys issued from the Treasury, in pursuance of appropriations made by law; but he is not responsible for the application of moneys issued from the Treasury for the use of the other Departments. When, for example, appropriations are made for the Departments of State, of War, or of the Navy, the Secretary of the Treasury, as also the Comptroller, are bound to prevent the advances from exceeding the appropriations. The disbursements and application of the moneys so advanced, to the various objects of public service, are necessarily made under the immediate superintendence of the other Departments, subject to a revision and final settlement by the Comptroller of the Treasury. But, from the nature of the public business, it becomes indispensably necessary, in most cases, that advances should precede the services for which the moneys are destined—as these services are of great magnitude, branched out into a variety of details, and performed by numerous agents. It results that while voluminous accounts are in a train of settlement, sums to a great amount must at all times appear debited to individuals, to be accounted for in course, although they are known to have applied the same according to law, and although in many instances they may have exhibited sufficient vouchers for their discharge.

The foregoing inquiries embrace the principal duties of the Secretary of the Treasury; in the discharge of which the Department is regulated by positive laws and established forms. In certain cases, a limited discretion is either given or implied in the nature of transactions performed under his agency. This happened chiefly in three instances: First, in contracts for the loan of money for the public service. Secondly, in providing and remitting to Europe funds for the discharge of the foreign debt. Thirdly, in measures adopted to enforce punctuality on the part of public agents and officers, in the payments of moneys into the Treasury.

First, in regard to loans of money:

On the first of February, 1795, being the day when the late Secretary of the Treasury was commissioned, the temporary loans to the United States by the Bank of the United States and the Bank of New York, exclusive of five hundred thousand dollars in stock, purchased on credit as hereinafter mentioned, amounted to four million nine hundred thousand dollars; at the same time the United States, however, were possessed of five thousand shares of the capital stock of the Bank of the United States, purchased with part of the proceeds of the said loans.

The following loans have been negotiated by the late Secretary:

1. Under the act, entitled "An act for the reimbursement of a loan authorized by the last session of Congress," passed on the 21st day of February, 1795, the sum of eight hundred thousand dollars.

The above loan was obtained of the Bank of the United States, at 6 per cent. interest, and was declared to be repayable by instalments of two hundred thousand dollars each, on the last days of December, in the years 1796, 1797, 1798, and 1799.

2. Under the act, entitled "An act making further appropriations for the Military and Naval Establishments, and for the support of Government," passed on the third of March, 1795, the sum of five hundred thousand dollars.

3. And under the same act, the further sum of five hundred thousand dollars.

The two last-mentioned loans were obtained of the Bank of the United States, at 6 per cent. interest; on the first, from April 1, 1795, and on the second, from October 1st, 1795, repayable in one year from the dates of the respective advances.

4. Under the act, entitled "An act making further provision for the support of public credit, and for the redemption of the public debt," the sum of five hundred thousand dollars.

The above loan was obtained of the Bank of the United States, at 6 per cent. interest, from January 1, 1796, repayable on or before the 1st of January, 1797.

5. Under the act, entitled "An act making provision for the payment of certain debts of the United States," passed on the 31st of May, 1796, there was obtained on the Bank of New York, at 6 per cent. interest, the sum of three hundred and twenty thousand dollars.

6. Under the act, entitled "An act making further provision for the support of public credit, and for the redemption of the public debt," there was obtained from the Bank of the United States, on the last day of December, 1798, at 6 per cent. interest, repayable on or before the first day of January, 1803, the sum of two hundred thousand dollars.

The six loans above mentioned amount to two millions eight hundred and twenty thousand dollars.

The first loan of eight hundred thousand dollars was negotiated for the purpose of effecting a treaty of peace with Algiers. On the 4th of February, 1795, the subject was submitted to the consideration of Congress, in a Message from the President. This Message was referred to a committee of the House of Representatives, consisting of Mr. Sedgwick, Mr. Madison, Mr. Baldwin, Mr. William Smith, and Mr. Gilcs. The Secretary of the Treasury was desired by the committee to ascertain in what manner the proposed loan could be obtained; and it is stated by him that the specific terms on which the contract was afterwards concluded, were presented to the committee; who, after being informed of causes which rendered any other mode of remitting so considerable a sum to Europe, at that time, either impracticable or highly inexpedient, approved of the proposal of receiving the amount of the desired loan in 6 per cent. stock, and of remitting the same to London to be sold on account of the United States. Being fully apprized of the manner in which the law would be executed, the committee reported certain resolutions on the 9th, which were adopted in a bill by the House of Representatives on the 11th and 12th of February, without opposition.

The House of Messrs. Baring & Co., of London, were, on the suggestion of the Secretary of the Treasury, designated by the then Secretary of State, to negotiate sales of the stock, and hold the proceeds subject to the disposal of the Minister of the United States at Lisbon. The Secretary of the Treasury is considered in no manner responsible for the subsequent disposition of the fund; though, by this remark, the committee do not intend to suggest that the management had been improper; which they have no reason to suspect.

The necessity of negotiating the second and fourth loans, of five hundred thousand dollars each, was evinced by an examination of the state of the Treasury, on the first of April, 1795, and first of January, 1796. The third loan of five hundred thousand dollars, negotiated on the first of October, 1795, appears to have been in like manner justifiable, with this additional circumstance in favor of the transaction, that an equal sum was applied on the same day to the payment of the

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six per cent. stock purchased by the Secretary of the Treasury, and remitted to Amsterdam, under circumstances hereinafter detailed.

Of the loan of three hundred and twenty thousand dollars, obtained of the Bank of New York, the sum of one hundred and twenty thousand dollars was immediately applied to satisfy part of a loan obtained of the Bank of the United States, in the year 1792; the remaining two hundred thousand dollars operated merely as a prolongation of the loan made by the Bank of New York, in the year 1794. The same observation is applicable to the sixth loan of two hundred thousand dollars obtained of the Bank of the United States.

The different capitals of the temporary loans made of the Bank of the United States, were, at the close of the year 1800, reduced to three millions four hundred and forty thousand dollars; at which time the United States remained possessed of two thousand two hundred and twenty shares of the capital stock of the said Bank. The total amount of Dutch debt extinguished since the first day of January, is four millions nine hundred and twenty thousand dollars; and no new foreign debt has been contracted by the Secretary of the Treasury.

In consequence of the failure of the attempt to negotiate sales of six per cent. stock, on terms advantageous to the public, the Secretary of the Treasury was authorized by the Commissioners of the Sinking Fund, with the consent of the President, which was duly obtained, to negotiate sales of a part of the shares of the Bank of the United States, belonging to the United States. In pursuance of which authorities, two thousand seven hundred and eighty shares were sold for one million three hundred and eighty-four thousand two hundred and sixty dollars; which sum was applied towards satisfying the demands of the Banks, and the proceedings duly reported to Congress, according to law.

The foregoing representation contains a detail of all the loans which were negotiated by the late Secretary of the Treasury, prior to the year 1799: the causes of which, so far as they produced an increase of debt, existed in the unexpected and pressing expenses of the year 1794, of which the insurrection in Pennsylvania may be considered as the principal; and in the necessity which existed early in the year 1795, of providing a fund for defraying the expenses of effecting a treaty of peace with Algiers; for neither of which objects adequate revenues had been or could be provided.

The only loans negotiated by the present Secretary of the Treasury, which have not been before enumerated, are, a sum of five millions of dollars obtained in 1799, in pursuance of an act passed on the 16th day of July, 1798, entitled "An act to enable the President of the United States to borrow money for the public service," for an equal amount of stock bearing interest at eight per centum per annum, until the last day of December, 1808, and thereafter at like interest, during the pleasure of Congress, until the said stock shall be redeemed: also, a further sum of one million five hundred and sixty-five thousand two hundred and twenty-nine dollars and twenty-four cents, obtained in pursuance of an act of Congress passed on the 7th of May, in the year 1800, by the sale of one million four hundred and eighty-one thousand seven hundred dollars of stock, bearing a like interest, and subject to the same terms of reimbursement. The necessity of these loans is well known to have been occasioned by the military and naval preparations lately directed.

The principles upon which these loans were nego-

tiated have been considered by the committees, and must be familiar to the House. The situation of the country was new and embarrassing; the prospect of a war was threatening; a reliance on public credit was necessary; the aids which could be afforded by the banks were limited, and could only be considered as resources which might be rendered auxiliary to more extensive and permanent negotiations. No loan had been previously negotiated by the Government, of individuals in the United States. A reliance upon loans in foreign countries appeared to be improvident and dangerous, from its tendency to diminish the confidence of the country in its internal resources. The market rate of interest in the United States was known to be at least eight per centum per annum, and it was certain, moreover, that the demand for money, which would be occasioned by a considerable loan, would tend to increase the then common rate of interest.

The first loan of five millions was obtained by subscription, and without attempting to dispose of the stock above par. Under the second contract, the loan may be extended to three millions and an half of dollars, if the Government should have occasion to raise that sum. No more than one million five hundred and sixty-five thousand two hundred and twenty-nine dollars and twenty-four cents, have yet been borrowed; for which the sum of one million four hundred and eighty-one thousand seven hundred dollars in stock, has been issued. No sales have been made for less than five per cent. advance in money, upon the nominal amount of the stock, being the mean value in the market at the time the contract was published. In every instance the most favorable terms for the public were preferred. The highest price offered was eight per cent. advance in money, at which rate only a small amount in stock was issued; and the committee see no reason to doubt that these loans were negotiated upon the best terms that could be procured, and with a laudable view to the public interest.

Secondly: In regard to remittances:

Remittances to the bankers of the United States in Amsterdam, for the purpose of providing for the payment of the principal and interest of the foreign debt, have been effected in the three following modes:

1. By purchasing six per cent. funded stock, and authorizing the banker to sell the same in Europe, on account of the United States.
2. By bills of exchange on Amsterdam, Rotterdam, Hamburg, and London.
3. By contracts with merchants in the United States, for cargoes consisting principally of West India produce, the proceeds of which were directed to be placed to the credit of the United States in Amsterdam.

In relation to the first object, it is observed that the first Secretary of the Treasury, in January, 1795, purchased of the Bank of the United States five hundred thousand dollars of six per cent. stock at par, payable by instalments. The late Secretary of the Treasury purchased in April, 1795, an additional sum of one hundred and sixty thousand dollars of like stock, for which immediate payment was made in money to the Bank of the United States.

In respect to the terms at which the stock was purchased, they were conformable to the current prices of stock at the periods when the purchases were made.

A necessity of purchasing the first-mentioned sum of five hundred thousand dollars on credit, was created by the heavy and unexpected expenses already alluded to. These had greatly exhausted the Treasury and in-

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capacited the Bank from increasing its loans to the Government.

It appears from the correspondence of the Treasury with the bankers in Holland, which the committee have carefully examined, that an expectation was entertained that the stock would be sold at par, including interest; or that the instalment of principal due in Holland, for the payment of which the stock was intended to provide, would be continued on loan by a new contract. Although both of these expectations were disappointed, in consequence of the unfortunate situation of Holland at that time, yet it clearly appears to the committee that every measure within the power of the Secretary was adopted to render the remittance as productive as possible.

The second mode of remittance, in bills of exchange, is that which has most usually been resorted to. The rates of exchange at which bills were purchased, have, it is believed, been the most favorable which circumstances would permit; at no time exceeding forty-two cents per guilder, and frequently for very considerable sums as low as thirty-six cents per guilder. No loss has been sustained by the public except in one instance, of a bill for one hundred and twenty thousand guilders, drawn by Pragers & Co., of Philadelphia, endorsed by Peter Blight, which was purchased by the cashier of the Bank of the United States, at the request of the Secretary, at thirty-six cents per guilder, and remitted in October, 1799. The drawers and endorser of the bill, at the time of the purchase, were in high credit; it is, moreover, stated by the Secretary, as his opinion, that a part of the debt arising from the protest will be eventually secured to the public.

The third mode of remittance, by purchasing the proceeds of cargoes, has been found effectual, and has, in no instance, occasioned any loss to the public. By the terms of the contracts, the public have been secured for all advances, by assignments of the policies of insurance, and by the bonds of the shippers. No commercial risks have ever been assumed by the Government, who have had no concern with the market, paying only for the nett amount passed to their credit. In other words, these shipments have been merely a collateral security for the replacing in foreign countries the advances made by the Treasury.

Thirdly: In regard to provisions made for enforcing punctuality on the part of public agents and receivers:

It is the immediate duty of the Comptroller to superintend the adjustment of the public accounts, and to direct prosecutions for all delinquencies of officers of the revenue, and for debts due to the United States. Though the Secretary, in virtue of his authority as superintendent of the collection of the revenue, would be also responsible for the permission of any negligence or abuse of trust in the officers of the revenue, or receivers of public money, after the same should come to his knowledge. In the collection of an immense revenue, through an extensive country, losses by the fraud, negligence, and insolvency of individuals, are unavoidable.

When the Secretary has obtained and presented to the President the best information in respect to characters recommended by him for appointment to office; when he has established those official forms and checks which are best calculated to convey a true state of the accounts of the public agents, and the money in their hands; when, on just grounds for suspicion of improper management, the Secretary has preferred to the President of the United States his complaints against those who are disqualified for office, and the Comptroller has directed

prosecutions for delinquencies, it is conceived that these officers have respectively discharged their duty in this particular. Instances, therefore, might naturally be expected of public defaulters to a very considerable amount, while no blame could attach to these officers of the Treasury. But, on the contrary, if the number of persons of this description, and the amount due from them are found to be comparatively inconsiderable, the inference is fair and plain that due caution has been observed in the appointments and diligence in the superintendence of the subordinate officers.

Upon this subject the committee have been solicitous to acquire such information as might be satisfactory to the House, and having examined the particular cases of delinquency which appear on the books of the Treasury, and the proceedings adopted by the Secretary and Comptroller, respectively, are convinced that the utmost loss arising from the delinquency of those concerned in the collection of the revenue, from duties on imports and tonnage, for six years, will not exceed one hundred thousand dollars; being somewhat less than one-seventh of one per cent. on the whole amount collected and secured.

The loss sustained in the management of the internal revenue, will exceed this ratio; for reasons of which, some are incident to the nature of the duties and mode of collection; and others, which happened at an early period, attributable to the novelty of the system. This loss, by officers commissioned by the President, is estimated at fifteen thousand dollars.

The committee have also examined, with attention, the statements of moneys advanced to individuals on account of current services. This amount is always apparently considerable, and the details are too voluminous to be annexed to this report. No inference can be drawn from them of the balances actually due from the public agents, as the sums advanced always appear to their debit, while the accounts of their expenditures, and their vouchers, which may absorb the whole amount, are either not rendered, or are in a train of settlement in the public offices. It does not appear to the committee that there is any foundation to conjecture that those persons who have been principally entrusted with considerable sums of money, will be found in arrear. The accounts of the late Secretary of State, Secretary of War, and Purveyor of Public Supplies, have been duly exhibited, and are in their course of settlement in the office. These accounts have been so far examined as to satisfy the accounting officers of the Treasury that no balance will be found due from them. On the whole, after such an examination as they have been enabled to make, the committee beg leave to express their opinion that the business of the Treasury Department has been conducted with regularity, fidelity, and a regard to economy. That the disbursements of money have been always made pursuant to law; that every attention consistent with the magnitude and nature of the business has been bestowed in removing delinquents from office; in compelling them to account; in securing moneys due from them, and in preventing an improper and unreasonable accumulation of moneys in the hands of public agents; that the loans effected on account of Government, have been procured on the most advantageous terms for the public; that the most eligible modes of remittance to Europe have been devised; and, generally, that the financial concerns of the country have been left by the late Secretary in a state of good order and prosperity.

The report was ordered to be laid on the table.

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THURSDAY, JANUARY, 29.

A resolution in the following words, proposed by Mr. HARPER, was read, and ordered to lie on the table:

Resolved, That the act entitled an act to augment the salaries of certain officers therein mentioned, ought to be continued in force."

A petition from sundry merchants of Rhode Island was presented to the House, and, on motion, referred to the Committee of Commerce and Manufactures.

The following resolution, proposed by Mr. RUTLEDGE, was presented to the House, which, being read, was ordered to lie on the table:

Resolved, That a committee be appointed to prepare and report such rules as, in their opinion, are proper to be adopted by this House, to be observed in the election of a President of the United States, whose term is to commence on the fourth day of March next, provided the Electors appointed under the authority of the States have not elected a President for that term."

MINE AND METAL COMPANY.

The House resolved itself into a Committee of the Whole on the bill to incorporate the persons therein named, and their associates, as a Mine and Metal Company.

A motion was made to strike out the first section of the bill, on the principle that Congress was not authorized by the Constitution of the United States, to grant charters of incorporation. This motion was supported by Messrs. LIVINGSTON and BIRD, and opposed by Messrs. S. SMITH, RUTLEDGE, J. BROWN, and BAYARD. On the question being taken it was determined in the negative.

Sundry amendments were made, which were reported by the Committee, taken up and adopted by the House. The bill was then ordered to be engrossed and read a third time to-morrow.

[During the session of this day, while the House was in Committee of the Whole, a noise was made, by a person in the gallery expressing, in a very loud voice, his approbation of what had been just said by one of the members. By the direction of the Chairman of the Committee of the Whole, the gallery was cleared, and the person who had committed the offence was taken into custody by the Sergeant-at-Arms. Before the House adjourned, a motion was made and carried that the person should be discharged from confinement.]

FRIDAY, JANUARY 30.

A memorial of sundry clerks employed in the different Departments was presented to the House and read, stating the insufficiency of the salaries at present allowed them by law, and praying that the same may be increased, and rendered more adequate to their services.

Mr. BAYARD submitted the following resolution, to wit:

Resolved, That, in the event of its appearing upon the counting and ascertaining of the votes given for President and Vice President, according to the mode pre-

scribed by the Constitution, that an equal number of votes have been given for two persons, that as soon as the same shall have been duly declared and entered on the journals of this House, that the Speaker, accompanied by the members of the House, shall return to this Chamber, and shall immediately proceed to choose one of the two candidates for President; and in case, upon the first ballot, there shall not appear to be a majority of the States in favor of one of the candidates, in such case the House shall continue to ballot for President, without interruption by other business, until it shall appear that a President is duly chosen; and, if no such choice should be made upon the first day, the House shall continue to ballot from day to day, till a choice shall be duly made.

Ordered, That the consideration of the said motion be postponed until Monday next.

A petition of Lawrence Erb, late Collector of the Revenue of the United States, within the county of Northampton, in the State of Pennsylvania, was presented to the House and read, praying to be relieved from the confinement to which he is subjected, in consequence of his having converted to his own use moneys which he received as collector as aforesaid, and is unable to refund.

Ordered, That the said petition be referred to Mr. ROBERT BROWN, Mr. THATCHER, and Mr. KITCHELL, with instruction to report thereon by bill, or otherwise.

The House went into a Committee of the Whole on the bill making the port of Biddeford and Pepperelborough, and the port of New Bedford, in Massachusetts, ports of entry for ships or vessels arriving from the Cape of Good Hope, and from places beyond the same.

The bill was reported to the House with amendments, and ordered to be engrossed and read the third time on Monday next.

The House went into a Committee of the Whole on the bill to cede to the State of South Carolina certain lands therein mentioned.

The Committee reported several amendments; which were severally twice read, and agreed to by the House, and the further consideration of the said bill was postponed until Monday next.

On motion, it was

Resolved, That a committee be appointed to inquire and report, by bill or otherwise, whether it is expedient so to amend the several acts concerning the naturalization of foreigners in the United States, as to admit to the benefits of the act on that subject, passed January the twenty-ninth, one thousand seven hundred and ninety-five, all persons whose situation would have enabled them, before the passing of the act of June the eighteenth, one thousand seven hundred and ninety-eight, on the same subject, to make declaration, pursuant to the said act of January the twenty-ninth, one thousand seven hundred and ninety-five, of their intention to become citizens of the United States, but who omitted to do so, and have constantly been residents of the United States; or to consider and report on the expediency of repealing the said act of June the eighteenth, one thousand seven hundred and ninety-eight.

Ordered, That Mr. HARPER, Mr. GREGG, Mr.

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LIVINGSTON, Mr. DANA, and Mr. EVANS, be appointed a committee, pursuant to the said resolution.

On a motion made and seconded that the House do come to the following resolution, to wit:

Resolved, That a committee be appointed to inquire into the expediency of amending the act, passed the eighteenth day of June, one thousand seven hundred and ninety-eight, entitled "An act supplementary to, and to amend the act, entitled 'An act to establish a uniform rule of naturalization, and to repeal the act heretofore passed on that subject,'" so as to admit aliens who were residents within the State, and under the jurisdiction of the United States, before the twenty-ninth day of January, one thousand seven hundred and ninety-five, and who have continued to reside as aforesaid, to become citizens of the United States:

Ordered, That the said motion be referred to the committee last appointed.

MINE AND METAL COMPANY.

An engrossed bill to incorporate the persons therein named, and their associates, as a Mine and Metal Company, was read the third time.

Ordered, That the fifth section of the said bill be recommitted to a Committee of the whole House immediately.

The House, accordingly, resolved itself into the said Committee; and, after some time spent therein, the Chairman reported that the Committee had had the said fifth section under consideration, and made one amendment thereto; which was twice read, and agreed to by the House.

Ordered, That the said amendment to the fifth section be presently engrossed, and read the third time.

The said fifth section, as amended, being then brought in, engrossed, and read the third time, the question was then taken that the House do agree to the said bill as amended, and resolved in the affirmative—yeas 50, nays 44, as follows:

YEAS—George Baer, Bailey Bartlett, James A. Bayard, John Brown, John Condit, William Cooper, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, George Dent, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glen, Samuel Goode, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Benjamin Huger, James H. Inlay, Henry Lee, Silas Lee, James Lynn, Lewis R. Morris, Harrison G. Otis, Robert Page, Josiah Parker, Jonas Platt, Leven Powell, John Reed, Nathan Read, John Rutledge, William Shepard, Samuel Smith, John C. Smith, James Sheafe, Samuel Tenney, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams and Henry Woods.

NAYS—Willis Alston, Theodorus Bailey, John Bird, Phaniel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William Charles Cole Claiborne, Thomas T. Davis, John Dawson, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Galatin, Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, George Jackson, Aaron Kitchell, Michael Leib, Matthew Lyon, Edward Livingston, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, John Randolph, John Smilie, John Smith, Richard Dobbs Spaight,

Richard Stanford, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Littleton W. Tazewell, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

CITY OF WASHINGTON.

A Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

I transmit to Congress, for their consideration, a letter from William Thornton, Alexander White, and William Cranch, Esquires, Commissioners of the City of Washington, with a representation of the affairs of the city, made by them to the President of the United States, dated twenty-eighth of January, one thousand eight hundred and one, accompanied with a series of documents marked from A to H, inclusively.

JOHN ADAMS.

UNITED STATES, Jan. 30, 1801.

The said Message and papers accompanying the same were read, and ordered to be referred to the committee appointed, on the twenty-seventh instant, to inquire into the expenditure of money made by the Commissioners of the City of Washington; the disposition of public property made by them; and, generally, into all the transactions of the Commissioners which relate to the execution of the trust confided to them by the President of the United States. [See *Appendix*.]

MONDAY, February 2.

A new member to wit: EBENEZER MATTOON returned to serve as a member of this House for the State of Massachusetts, in the room of Samuel Lyman, who has resigned his seat, appeared, produced his credentials, was qualified, and took his seat in the House.

An engrossed bill making the port of Biddeford and Pepperelborough, and the port of New Bedford, in Massachusetts, ports of entry for ships or vessels arriving from the Cape of Good Hope, and from places beyond the same, was read the third time and passed.

A motion being made and seconded that the House do come to the following resolution, to wit:

Resolved, That a committee be appointed to prepare and report such rules, as, in their opinion, are proper to be adopted by this House, to be observed in the choice of a President of the United States, whose term is to commence on the fourth day of March next, if, when the votes which have been given by the Electors appointed under the authority of the States shall have been counted, as prescribed by the Constitution, it shall appear that no person for whom the Electors shall have voted, has a majority, or that more than one person, having such majority, have an equal number of votes:

Ordered, That Mr. RUTLEDGE, Mr. NICHOLAS, Mr. GRISWOLD, Mr. MACON, Mr. BAYARD, Mr. TALIAFERRO, Mr. FOSTER, Mr. CLAIBORNE, Mr. OTIS, Mr. DAVIS, Mr. MORRIS, Mr. CHAMPLIN, Mr. BAER, Mr. COOPER, Mr. LINN, and Mr. WOODS, be appointed a committee, pursuant to the said resolution.

Ordered, That the motion made on Friday last

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relative to the mode of commencing and continuing the ballot for the choice of a President of the United States, be referred to the committee last appointed.

Mr. SAMUEL SMITH, from the Committee of Commerce and Manufactures, presented a bill to amend an act, entitled "An act to retain a further sum on drawbacks, for the expenses incident to the allowance and payment thereof, and in lieu of stamp duties on debentures;" which was read, and committed to a Committee of the Whole.

Mr. SAMUEL SMITH, from the last mentioned committee, presented, a bill to amend an act, entitled "An act to regulate the collection of duties on imports and tonnage;" which was read twice and committed to a Committee of the Whole.

Mr. GREGG observed that a report had gone abroad, which he believed to be true, that a number of very valuable and important books and papers belonging to the Departments of War and of the Treasury had lately been destroyed by a fire, which unfortunately had quite ruined one of the houses, and greatly injured the other, in which these offices were kept. It appeared to him highly necessary and proper, that Congress should know, as far as it could be ascertained, the extent of that destruction; and how the settlement of public accounts would be affected thereby. He believed the best method of obtaining this information, would be to call on the Heads of these Departments for an official statement of the knowledge they have, or may be able to acquire on the subject. For this purpose he would move a resolution in the following words:

Resolved, That the Secretaries of War and of the Treasury be directed to communicate to this House such information as may be in their power, in relation to the destruction of official books and papers, in their respective departments, by fire; designating particularly what description of books and papers were lost, and what the probable effect of such loss will be, in the adjustment of the unsettled accounts of the United States.

The motion was carried.

DISTRICT OF COLUMBIA.

The House then went into Committee of the Whole on the bill for the government of the District of Columbia. While the question was being taken for the House to resolve itself into a Committee, Mr. SMILIE rose and moved the postponement of this order till the third day of March next. He made this motion, he said, in order to try the sense of the House, whether they were determined to assume the jurisdiction or not. He hoped it would not, and was proceeding to show his reasons, when

The SPEAKER reminded him of the order of the House. He could not be permitted to discuss the merits of the bill under this motion.

Mr. SMILIE conceived the question to affect the bill generally, and simply to be, whether the House would agree to disfranchise some thousands of persons of their political rights, which they now enjoyed. If this was not considered an object of importance enough to command attention, he must confess other gentlemen saw it in a

very different light from that in which he viewed it. By the passage of this bill, the people of the District would be reduced to the state of subjects, and deprived of their political rights, and he very much doubted whether not of their civil rights also. If, indeed, there was such an imperious necessity of assuming the jurisdiction, of which he was by no means convinced, then it must be done; but, if that great and immediate necessity did not exist, why should this privation of rights take place? If it was necessary to reduce the City of Washington to a state of local government by an incorporation, he contended that act could be done by the State Legislature; as he did not conceive the local demands of the people called for it, as they could want no such assumption as the bill contemplated, and as he could perceive no advantage to be derived to the General Government thereby, and as the assumption would eventually injure the people, he trusted it would be postponed, at least.

Mr. RUTLEDGE said, he had always uniformly opposed any motion for postponing a bill the consideration of which the House had not gone into. Although it might be in order, it could not be perfectly fair, from various considerations; if, however, it were only from its tendency to preclude the investigation of the bill, it were sufficient. The gentleman had stated it not to be necessary. Who are to judge? Most assuredly the people belonging to the Territory. And what have they said? Why, sir, they have prayed the House to assume the jurisdiction. From this petition the subject was referred to a committee, and this committee have reported a bill, and a bill well discussed and well matured in its detail. To refuse this bill, from a diversity of sentiment, would be to insult the committee and to insult the people of the Territory. If the gentleman wishes to please the people, why does he not suffer the consideration of the bill to proceed, and afford his aid in making it what he supposes their desires would concur in? Perhaps the gentleman had not read the bill. Mr. R. said, if he had not, how was he to know whether it was good or bad? Something must be done. He wished to get at that something, but was precluded by the motion. It certainly became the gentleman to show how this bill would operate injuriously upon the people, as a reason for his motion. Disfranchisement, to be sure, had been mentioned as the result of this bill; but how was the House to know that would be its tendency, except by going into its investigation?

Mr. CRAIK, also, considered this order of the House as the most unfair one among the rules of the House. However, it must be permitted while the order continued. The gentleman had said the people were in a state of vassalage; how was this declaration to be refuted, if the order of the House forbade the investigation into the application of this bill to the liberties of the people? The gentleman further said, that the people did not desire this assumption of jurisdiction. Were he, Mr. C. said, to give an opinion upon the subject, it would be drawn from the same source with that

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expressed by the gentleman, but of a very different import. He should say, as far as his knowledge of their sentiments extended, and he professed to be pretty well acquainted with their ideas upon this subject, that their feelings, their interests, and their desires, conspired to encourage the assumption, and to prevent the postponement of the subject. As the immediate representative of a large proportion of them, he could say that much uncertainty and disquiet convulsed the minds of many good and wise men among them; that their present uncertainty was truly deplorable; that serious doubts existed with judicious men how far the grants and acceptance of lands, or of their papers, afforded them security for value received; doubts existed, in all their acts of negotiation, whether their respective State laws held any government over them? And this state of insecurity as to their property, could not fail to have an injurious effect. They doubted whether all other jurisdiction did not immediately cease, upon the removal of Congress to the District; and should Congress break up without assuming the jurisdiction, and taking other suitable measures to fix the government, it would not fail to paralyze every exertion and effort toward a successful establishment. No man at present can assure himself of the right by which he holds his property, or remove his apprehensions. They now called loudly upon the National Government to remove from them this state of doubt and uncertainty; this is the object of the bill before the House; by this bill, a variety of inconveniences are removed, and the Government use their effort to make their situation at least more certain; and, he had no doubt, more safe and desirable. This it was incumbent on the Government to do; and this, he trusted, a majority of the House would be disposed to do soon. If the objects or provisions of the bill did not meet that gentleman's desires, he wished an opportunity to hear the objections, to enable him, as far as in his power, to remove them.

Mr. SMILIE was proceeding to show that, at any rate, such a bill as the present ought not to pass, when

The SPEAKER interrupted him, saying that any arguments that went to show that the third day of March was a more proper time than the present for this bill to pass would only be in order.

Mr. SMILIE continued to show the impropriety of the bill, and the inevitable injuries that must be sustained by it, when he was again reminded of the question of order.

Mr. S. proceeded: that it might be the wish of some of the people, he would not say; but he denied that such a wish had been expressed, and therefore it ought not to be considered as correct. As to the question of doubt on the minds of the people, whether or not they held their property secure, not being certain of the existence of their former State laws, he referred to the acts of cession, passed by the States of Maryland and Virginia respectively, the words of which were, that the laws remained in force "until Congress shall by law otherwise provide." Under this express provision, the cession was made by the two States; and

by this provision the Government of the United States accepted the grant of the ten miles square. And, therefore, until Congress by law should accept of the jurisdiction and nullify the laws of those States over the District, there could be no doubt but they remained in full force, and property was held as secure under those laws as ever. As he had before observed, he contended that an act of incorporation could be obtained for the City of Washington without this bill. From all these grounds, he believed the bill to be at present unnecessary.

Mr. H. LEE did not wonder at this opposition, considering the quarter from whence it came; perhaps, he said, if he had come from Pennsylvania, the idea of losing the General Government, might instigate him to wish to give the stabbing blow to every act which should go to the establishing of that Government in another place. But, he trusted, as these local reasons could not influence gentlemen from other States, they would not concur in his arguments. He trusted other gentlemen would lay to their hands and join to make this District a settled Government, and go into the examination of the principles proposed to accomplish that measure. He hoped not merely words of kindness escaping from the lips of gentlemen, would be deemed by them sufficient, but that their efforts would be used to produce a well-digested and valuable Government for the security of their civil and political rights.

With respect to the act of cession, he contended that the solemn injunctions of the Constitution were detailed in words upon which the most critical could not find wherewith to hang a doubt. There the Congress of the United States were enjoined to "exercise exclusive jurisdiction." When was this jurisdiction to commence but at the period when the General Government should occupy it? Was not, then, this spot become the permanent seat of the Government of the Union? Were not the different departments, Executive, Legislative, and Judicial, assembled, according to the Constitution, in this District? How, then, could the respective States of Virginia and Maryland a moment longer possess the jurisdiction? It was completely done away, and nothing was now wanting to remove the miserable state of suspense the people now felt, but the declaration of the Government that this was the case; that moment would all their fears be appeased. As a friend to those people, then, as much as that gentleman could be, he hoped an opportunity would be given to examine the bill, not doubting but it would be made to meet the wishes, as he was assured it would be the interest of the people to be governed by it.

Mr. MACON said the motion was perfectly in order, and explained some of the cases for which it was established, as a rule of the House. As to the jurisdiction being assumed by the removal of Congress here, as the gentleman last up had said, were that the case, not only by this bill would it be assumed, but the acts of the two States must have ceased from the day Congress first sat here; a deduction by no means supported. The only

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evidence the House had of the desire of the people to come specially under the National Government, was a petition from Alexandria, except that the gentleman from the District had learned so among his friends. But did that express the will or wishes of the inhabitants of the surrounding country?

As he believed the laws of the States to be in full force; as he believed they would remain so until otherwise enacted by Congress, and as postponing the bill till the third of March would afford the people a large time to reflect on the subject, and express their will more generally, he hoped the postponement would take place. He would remind the House that this measure, once taken, could not be undone; and, therefore, prudence would dictate that time should be taken to do it well. The act could not be repealed without amending the Constitution. If the gentleman only calculated upon an opposition from Pennsylvania, he was mistaken. Mr. M. presumed that he could not be supposed to have local attachments, residing very far from the former, or the present seat of Government; he was, notwithstanding, opposed to taking up this subject at present, and even during the present session. The delay of acceptance could not displease the inhabitants, if they were satisfied as to the present jurisdiction, which did not, in his opinion, admit of a doubt. It was impossible that the postponement could be attended with any inconvenience; they had been in the same situation for ten years, and wherein could be the inconvenience of their remaining so? Nay, there must be advantages in their usages and customs being continued to them. He wished this matter to be postponed till another session.

Mr. BIRD never could suppose that the members of the Legislature would be satisfied with their removal from a place of accommodation to a wilderness, and with subjecting themselves to the inconveniences of this place, without exercising all the powers entrusted to them, and taking the jurisdiction to the Government, the members and subordinates of which were to subject themselves to the code of laws under which they should place themselves. A motion, therefore, to continue the jurisdiction out of the hands of the Government, much surprised him. All the arguments used by the gentleman in favor of a postponement, would operate fully to the entire abandonment of the subject; and did he suppose that all the expense attending the removal of the whole Government, all the inconvenience experienced would be, or ought to be, borne without the enjoyment of that Constitutional right, nay, injunction, of "exclusive legislation?" What could have been the reason why Congress was to assume this exclusive legislation? Did not the members of the Convention know that a great quantity of public treasure would be drawn together into this place? Did they not suppose it of importance to secure the privileges and rights of foreign Ministers, who would necessarily be brought to reside in this District? Did they not consider the number of persons attached to the

Government worthy of the special regard of the National Legislature? Could any gentleman conceive that these were not too great powers to be entrusted to any State whatever? Else why was the provision for exclusive jurisdiction made? To avoid putting those powers into execution, he firmly believed, would be omitting a great and important duty. But, were it not for the words of the Constitution, the words of the acts of cession made by the States were as ample upon the subject as one sovereign Power in the act of granting, and another sovereign Power in the act of receiving a cession, could make. This was precisely the case; the two States made a full and complete cession of the jurisdiction to the General Government, upon the terms of the Constitution, which were to "exercise exclusive legislation, in all cases whatever, over such District," which had, by the cession of those particular States, and the acceptance of Congress, become the seat of the Government of the United States. How, he would ask gentlemen, could this be granted, and yet retained? It was absurd to suppose a man could grant a piece of land, and by the same instrument retain it.

But suppose this was a doubtful subject, whether or not the laws of the two States were in force in the District; would the gentleman still wish to leave it in doubt? Surely no new laws could be made by those States to affect this District, actually made the seat of Government, and he contended that none of the laws whatever did exist here, and that the power of the civil officers actually had ceased; it therefore required no painting to show that the state of the place was truly deplorable. Would the gentleman yet wish to leave the District without laws, and merely lest it should take away their suffrage? That the people could not be represented in the General Government, Mr. B. admitted. But where was the blame, if any could attach? Certainly not to the men who made the act of cession; not to those who accepted it. It was to the men who framed the Constitutional provision, who peculiarly set apart this as a District under the national safeguard and Government. But, he contended, there was no injury sustained. What less compensation than the particular legislation of this District could be required for the removal of the Government, whereby in these almost uninhabited woods the beginnings of a rich and prosperous city was commenced, and made the capital of the United States?

The motion for postponement was withdrawn without a question being taken, and the House resolved itself into a Committee of the Whole on the bill. Mr. SMILIE moved to strike out the first section of the bill.

Mr. SMILIE said he would willingly give the reasons which prompted him to make the motion, and he hoped the gentleman would as freely make his reply. If it could be proved to him that the rights of these people could be reserved by the passage of the bill, it would give him pleasure, but, believing it to be impossible, he wished to destroy the bill. It could not be denied but that

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the people of this District were precisely in the same situation at present which they always had been, and subject to the same laws, but would it be so when the Government once accepted the cession? It would not. Not a man in the District would be represented in the Government, whereas every man who contributed to the support of a Government ought to be represented in it, otherwise his natural rights were subverted, and he left, not a citizen, but a subject. This was one right the bill deprived these people of, and he had always been taught to believe it was a very serious and important one. It was a right which this country, when under subjection to Great Britain, thought worth making a resolute struggle for, and evinced a determination to perish rather than not enjoy.

Another, and an important right, of which those people were about to be deprived, was, that their Judges and their Governor were not to be the choice of themselves, but of the President. The privilege of a local Legislature might be given to the people, but of what avail could they be if the Governor appointed by the President could deprive them of every act they might make by his negative? Where was their security if the acts of these Representatives of the people could be to-morrow revoked by a power deriving authority from elsewhere? Much as gentlemen might talk about dignity of government, nothing, he thought, would more comport with true dignity than liberty, and without it dignity of government was not worth a name. It surely must be disagreeable for the Government to be in the midst of a people who are deprived of their rights, and what insecurity there ever had been, or ever would be, to the Government, from its residence under the laws of the States, he could not conceive. He had never known of any. If he could be convinced that the people would not be deprived of these rights, among others, he would agree to some such bill as this.

Mr. DENNIS acknowledged that had he the same impressions as the member who had just sat down, he would not hesitate for a moment to believe that liberty had been forced to yield to a reign of absolute slavery. But from a consideration of the interests of the people, of the dignity of the Government, and of the seat of the Congress, together with the reflections of the gentleman who had just resumed his seat, he felt himself called upon to make some observations by way of an answer.

As to the interests of the people, could it for a moment be doubted that a local government, a judiciary, and a legislature, would be highly advantageous? Could any man doubt but it would be more convenient and advantageous for the inhabitants to attend the courts in this place than to be taken away to Richmond or to Annapolis? It had been always an approved privilege that justice should be brought home to every man's door, and where could it be more so than by the establishment of a judiciary, especially for this District? Nor were the advantages less, he contended, in the legislative department. If a ready communication with their representatives was desira-

ble to the people, by the residence and sitting of the representatives of this District being within itself, the communication was easy, and the rights of the people in their local concerns more attainable, surely, than though they had to go to Richmond or to Annapolis. But, taking a more comprehensive view of the subject, Mr. D. asked if the general interests of the District would not be more secured by persons immediately acquainted and concerned, than by persons of different States, and at a distance from the place? One or two representatives to each legislature would be the utmost that the District could send, and these placed among men of different interests, what could be expected compared to a body such as is prescribed by this bill, drawn from among the people themselves? In these legislatures, the numerous local circumstances which must call for attention in a newly planted and rapidly growing capital, never can receive due attention. Every person must know that a great proportion of business must arise from a commercial city. From observation he could say that about one-third of the business of the Legislature of Maryland usually arose from Baltimore alone. As this city, therefore, grew in population and in trade, the demand for legislative attention would increase, and either its interests must be neglected, or the sitting of the State legislatures must be protracted too far. Besides this, experience must have taught gentlemen that numerous bodies could not so well attend to the minute advantages of a place like this as small bodies, and particularly such as well knew its situation and circumstances.

It had been said that these people were happy. Mr. D. admitted it, but a change of circumstances made an inevitable difference, and required a different mode of legislating. This District of the General Government, being a part of two States, must require an alteration from its former government. Surely the organization of a local body must be more advantageous than any modifications which could be made by those two Legislatures. So far from a rule of despotism then being over these people, he thought the passing of this bill would much increase their prosperity. It was said that, by the assumption of the jurisdiction, these people would ask how much they were heretofore represented in the two Legislatures to which they sent delegates. They were so in name, but very little in essence, from the comparatively small number they could send to the Legislatures. But the arguments went as much against the assumption at any future time as at present. That it would be some time taken up there could be no doubt. It ought therefore to be recollected, that if it would ever be proper, a period more unfavorable to the interests of the people might be selected than the present, and therefore the present moment ought to be accepted, and especially so, as he believed the people were desirous of it, and were satisfied with the features of the bill. From their contiguity to, and residence among the members of the General Government, they knew, that though they might not be represented in the national body, their voice would be heard. But if it

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should be necessary, the Constitution might be so altered as to give them a delegate to the General Legislature when their numbers should become sufficient. Upon the whole, he could see no measures which would more immediately promote the interests of the people of this District, and give stability to their minds, and to their concerns with each other, than the present bill; and, therefore, he hoped the section would remain.

Mr. MACON said, he could see no such immediate necessity for this law. A gentleman had told the Committee it was necessary because the States did not pay regard to it. Mr. M. supposed the same attention was paid to this District as usual, and the same as was paid to any other particular part. He believed their political and local rights were as perfectly secure without this bill as any other part of those States, and if the object of gentlemen was to make it better or worse, he should be opposed to it. Before the least change from their former situation, some inconveniences ought to be mentioned under which they labored, and this had not been done, more than mere conjecture and surmises had engendered. Most assuredly there ought to be some good ground for this assumption, because it was not merely a common act of the Legislature, which could be repealed or amended as soon as passed. It was an act of a nature that could not be essentially altered without an alteration in the Constitution, because if the assumption was once accepted, it could not be parted with.

It would be so far from advantageous to the city of Washington, Mr. M. said, that it must essentially injure it. On one side of the water was Alexandria, a populous town; on the other side was Georgetown. Would not these two give to the legislature a majority? And if so, a more palpable evil could not be put upon the city than by putting it in with more numerous towns whose interests would ever be opposed to the growth of the city. There would inevitably be an Alexandria interest, a Georgetown interest, and a city interest, and those struggling with each other.

It was said to be inconvenient to be represented at a distance, from the want of an easy communication. How could this be? What was more easy than for letters and instructions to be sent by post? The communication was easy from all parts of the United States to Congress, and could be equally so to any place where the post goes. There could be no doubt but the States would pay as much attention to the interests of this District, if it continued under their jurisdiction, as ever had been done, and more: by not suffering it to endure any injury which it could prevent, Congress should immediately take the jurisdiction. The language and meaning of gentlemen could be well understood. Gentlemen were called to support the measure with energy, while they had strength. No doubt this was the principal ground of their endeavors to push the measure, although the Legislature had but just met here, and there had been scarce time to know what would be the proper regulations to adopt. But he wished to remind them, that, although the law might be

passed, the time would not be far off when his friends would be in the minority, and some considerable alterations might be made in it.

Mr. M. then proceeded to the details of the bill. He disliked the establishment of a government, the executive and judiciary of which were in the appointment of the President of the United States, the former for three years and the latter during good behaviour: and these, both governor and judges of the superior and inferior courts, to be paid out of the Treasury of the United States. Could it be the wish of the gentleman, he asked, to establish in the very heart of the United States, and immediately under the eye of the Government, such a principle as that these rulers should be independent and entirely above the control of the people? He declared that if he should be in Congress again, and as long as he ever should be in the House, he should constantly make it his duty to exert himself for the repeal of so bad a principle, and leave the governor, the judges, and the legislature, immediately amenable to the people. Another thing he should also be ever opposed to, was the manner of this House of Representatives and Senate being chosen, and the time of their continuance. Why should they be elected here for two years, when in all the State Legislatures, he believed they were chosen annually, except two, in one of which they were elected every six months, and in the other, every two years. A greater absurdity still was evinced in the time for which, and the manner how the Senators were chosen—six years, and by electors. Although in these things there was a similarity to the choice of the General Government, he would ask what similarity there could be in the two Governments? In the one there is a vast extent of country and a numerous population; in the other, a small population, a small tract of country, and an almost general knowledge by every one of every individual in it. He doubted whether the Legislature of the Union could at all delegate powers to this local government; but whether or not, he could see no kind of necessity during the present session to assume them. The Government would go on as well as before, and he had no doubt the city would continue in that rapid state of prosperity gentlemen had witnessed since they arrived here.

The Committee rose without taking a question, and had leave to sit again.

TUESDAY, February 3.

A new member, to wit: JOHN STEWART, returned to serve as a member of this House for the State of Pennsylvania, in the room of Thomas Hartley, deceased, appeared, produced his credentials, was qualified and took his seat in the House.

A petition of Theodosius Fowler was presented to the House and read, stating that a contract had been formed by the petitioner, with the Secretary of the Treasury, some time in the year one thousand seven hundred and ninety, or one thousand seven hundred and ninety-one, for supplying rations to certain troops in the service of the United States; which contract he entered into at the request of

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William Duer, deceased, but in which he, the petitioner, had no concern or interest whatever; that a large balance due upon the said contract, to the United States, is now claimed from the petitioner, and that a suit has been instituted against him for the recovery thereof; and praying that the said suit may be discontinued, or such other relief afforded to the petitioner, as to the wisdom and justice of Congress may seem meet.

Ordered, That the said petition be referred to Mr. BIRD, Mr. MORRIS, and Mr. HENRY LEE; that they do examine the matter thereof, and report the same, with their opinion thereupon, to the House.

On motion it was

Resolved, That a committee be appointed to prepare and bring in a bill supplementary to the act, entitled "An act to divide the Territory of the United States Northwest of the Ohio into two separate governments."

Ordered, That Mr. OTIS, Mr. GALLATIN, and Mr. McMILLAN, be appointed a committee pursuant to the said resolution.

Mr. PINCKNEY, from the committee to whom was recommended, on the twenty-ninth ultimo, the bill giving a right of pre-emption to certain persons who have contracted with John Cleaves Symmes, or his associates, for lands lying between the Miami rivers, in the Territory of the United States Northwest of the Ohio, reported an amendatory bill giving a right of pre-emption to certain persons who have contracted with John Cleaves Symmes, or his associates, for lands lying between the Miami rivers, in the Territory of the United States Northwest of the Ohio; which was read twice and engrossed, and ordered to be read the third time on Thursday next.

Mr. GRISWOLD, from the Committee of Ways and Means, made a report; which was read and considered; Whereupon,

Resolved, That the Committee of Ways and Means do prepare and report a bill to authorize the Secretary of the Treasury to employ Clerks for completing the abstracts of the valuation of lands and dwelling-houses, and the enumeration of slaves, agreeably to the provisions of the act, entitled "An act supplementary to the act, entitled 'An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves within the United States,' in those States where clerks cannot be procured by the Commissioners for the compensation allowed by law to clerks employed in that business.

Mr. GRISWOLD, from the last mentioned committee, presented a bill to amend the act, entitled "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves within the United States, and to repeal the act, entitled 'An act to enlarge the powers of the Surveyors of the Revenue; which was read twice and committed to a Committee of the Whole.

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The House resolved itself into a Committee of the Whole on the bill for the government of the District of Columbia, when the question was taken on the motion made yesterday, for striking out the

first section, and negatived, ten members only rising for it.

Mr. GREGG then proposed an amendment to the first section, the object of which was to make the election of representatives annual, instead of biennial as contemplated by the bill. This motion brought on a lengthy discussion, being supported by Messrs. J. SMITH, CLAIBORNE, NICHOLAS, GALLATIN, and MACON; and opposed by Messrs. CRAIK, HARPER, BAYARD, H. LEE, THOMAS, and DENNIS. On the question for agreeing to the motion, it was determined in the negative—48 voting for it and 50 against it.

A motion was then made by Mr. CLAIBORNE, so to amend the first section as to extend the privilege of voting to persons who are not freeholders; that privilege being confined by the bill to freeholders exclusively. This motion brought on a short debate, in which Messrs. KITCHELL, NICHOLSON, SMITH, MACON, TAZEWELL, and NICHOLAS supported the motion, and Messrs. HARPER, CRAIK, DENNIS, and GALLATIN, opposed it. On the question that the House do agree to the motion, it was determined in the negative, there being 48 votes for and 50 against it.

WEDNESDAY, February 4.

A petition of sundry freeholders and inhabitants of the City of Washington, whose names are thereunto subscribed, was presented to the House, and read, praying that Congress may assume the jurisdiction of the Territory of Columbia, and frame such a code of laws for the government thereof as in their wisdom may seem meet.

Ordered, That the said petition be committed to the Committee of the whole House, to whom is committed the bill for the government of the District of Columbia.

Mr. R. BROWN, from the committee appointed, presented a bill authorizing the discharge of Lawrence Erb from his present confinement; which was read twice and committed to a Committee of the whole House on Monday next.

Mr. S. SMITH, from the Committee of Commerce and Manufactures, presented a bill to add to the district of Massac, on the Ohio, and to discontinue the districts of Louisville, in the State of Kentucky, and Palmyra, in the State of Tennessee, and therein to amend the act, entitled "An act to regulate the collection of duties on imports and tonnage;" which was twice read, and ordered to be engrossed, and read a third time tomorrow.

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The House resolved itself into a Committee of the Whole on the bill for the government of the District of Columbia.

A motion was made by Mr. GALLATIN to amend the first section of the bill, so as to extend the privilege of voting for representatives to persons other than freeholders, who are possessed of property in the District to the value of eighty dollars.

Mr. HARPER proposed an amendment to the foregoing amendment, that a citizen, not being a

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freeholder, in order to qualify him as an elector, must be a housekeeper, and possessed of property of the value of one hundred dollars, to be ascertained by the record of the last assessment next preceding the period of offering his vote.

Mr. GALLATIN's amendment was withdrawn, and Mr. HARPER's, which, though offered as an amendment, was a complete substitute for it, was adopted.

Mr. CLAIBORNE proposed as an amendment to this same section, to reduce the term of a Senator continuing in office from six to three years.

The motion was negatived.

Mr. TAZEWELL moved to strike out the Senate altogether, on the ground that Congress, having the revision of all laws that may be passed for the Territory, and the power of rejecting such as they did not approve, would be a sufficient check on the Representatives without a Senate.

This motion was negatived.

Mr. MACON moved as an amendment, that the Senators should be elected immediately by the people, and not by electors, as proposed by the bill.

This motion was also lost.

A motion was made by Mr. NICHOLSON, that the electors should not be permitted to choose themselves as Senators.

This motion was adopted.

The Committee rose, reported progress, and asked leave to sit again.

A message was received from the Senate informing the House that the Senate had passed the bill for erecting a mausoleum for GEORGE WASHINGTON, with amendments. The amendments were committed to a Committee of the whole House, and ordered to be printed.

THURSDAY, February 5.

An engrossed bill giving a right of pre-emption to certain persons who have contracted with John Cleves Symmes, or his associates, for lands lying between the Miami rivers, in the Territory of the United States Northwest of the Ohio, was read the third time, and passed.

An engrossed bill to add to the district of Massac, on the Ohio, and to discontinue the districts of Louisville in the State of Kentucky, and Palmyra, in the State of Tennessee, and therein to amend the act, entitled, "An act to regulate the collection of duties on imports and tonnage," was read the third time, and passed.

A memorial of sundry inhabitants of Alexandria, signed by Amos Alexander, their chairman, was presented to the House, and read, expressing their disapprobation of several of the provisions contained in the bill now depending in the House, for the government of the District of Columbia.

Ordered, That the said memorial be committed to the Committee of the whole House, to whom is committed the bill for the government of the District of Columbia.

On motion, it was

Resolved, That a committee be appointed to inquire into the expediency of extinguishing the claims of the United States for certain balances,

which, by the commissioners appointed to settle the accounts between the United States and the several States, were reported to be due from several of the States to the United States; and that the said committee be authorized to report by bill or otherwise.

Ordered, That Messrs. HILL, WALN, HARPER, OTIS, and C. GOODRICH, be appointed a committee, pursuant to the said resolution.

The House again resolved itself into a Committee of the Whole on the bill for the government of the District of Columbia. Several amendments were made to the bill, and it was reported to the House.

On motion, it was

Resolved, That the act, entitled, "An act to augment the salaries of the officers therein mentioned," ought to be continued in force and made perpetual.

Ordered, That Messrs. HARPER, DENT, and EDMOND, be appointed a committee, pursuant to the said resolution.

A message from the Senate informed the House that the Senate have passed a bill, entitled, "An act concerning the District of Columbia," to which they desire the concurrence of this House.

The said bill was twice read, and committed to a Committee of the whole House to-morrow.

TRADE WITH THE INDIANS.

Mr. CLAIBORNE, from the committee appointed, on the second of December last, to inquire into the expediency of carrying on any further trade with the Indians, on a capital furnished by the United States, made a report; which was read, and committed to a Committee of the whole House on Monday next.

The report is as follows:

The committee appointed to inquire into the expediency of carrying on any further trade with the Indians, on a capital furnished by the United States, report:

That in pursuance of the laws heretofore passed by Congress on that subject, two trading-houses, or factories, have been established; one in the State of Tennessee and another in the State of Georgia; and, of the sums appropriated by Congress, the sum of ninety thousand one hundred and fifteen dollars and ninety cents has been drawn from the Treasury, for the purpose of forming those establishments and purchasing and conveying goods suitable for trade with the Indians of the Cherokee and Creek nations. That the laws aforesaid expired on the ———, and no law was passed at the last session of Congress to continue the establishment and trade aforesaid; although the committee to whom the subject was then referred, reported, that it was expedient to continue the trade.

The committee further report,

That from the accounts in the Treasury Department, rendered by the persons who superintend those establishments or factories, the present state of this trade cannot be ascertained; and although this trade may have produced some advantages in attaching the Indians to the Government of the United States, by affording them necessities, and avoiding the animosities which might be produced by the abuses of private traders, yet those have not been of such magnitude as to justify, in the opinion of the committee, any extension or increase of the capital stock, however proper it may

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be to continue the trade, on the stock now vested, for some time longer.

The committee, unwilling to abandon institutions of public utility, and convinced that the establishment of Indian houses, with proper management, would contribute to the attainment of important advantages; and not having ascertained, with any precision, how far the present establishment may be maintained without loss to the United States, therefore recommend the following resolution:

Resolved, That it is expedient to provide by law for the continuance of the trade and trading-houses heretofore by law established, on the capital already drawn from the Treasury, for one year, and from thence to the end of the next session of Congress; and that provision should be made in such law, for the better regulation of said trading-houses, and prescribing the duties of the agents employed therein.

Ordered, That this report be committed to a Committee of the Whole on Monday.

FRIDAY, February 6.

A new member, to wit: LEVI LINCOLN, returned to serve in this House as a member from Massachusetts, in the room of Dwight Foster, elected a Senator of the United States, appeared, produced his credentials, and took his seat in the House.

Mr. BIRD, from the committee appointed, presented a bill for the purpose of ascertaining the northwardly boundary line of a tract of land between the Little Miami and the Scioto rivers, reserved by the State of Virginia to satisfy the troops of the line of the said State, who in the Revolutionary war served on the Continental establishment; which was read twice, and committed a Committee of the whole House on Tuesday next.

The House proceeded to consider the amendments reported yesterday from the Committee of the whole House to whom was committed the bill for the government of the District of Columbia: Whereupon,

Ordered, That the said bill and amendments be recommitted to the Committee of the whole House to whom is committed the bill sent from the Senate, entitled "An act concerning the District of Columbia."

Mr. PLATT, from the Committee of Revision and Unfinished Business, to whom it was referred to examine what laws have expired, or are near expiring, and require to be revived or further continued, made a further report, in part; which was read, and ordered to lie on the table.

On motion, it was

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of making provision to secure the property of prints to inventors and engravers.

RULES FOR ELECTION OF PRESIDENT.

Mr. RUTLEDGE, from the committee appointed, on the second instant, to prepare and report such rules as, in their opinion, are proper to be adopted by this House to be observed in the choice of a President of the United States, made a report; which was read, as follows:

The committee appointed the second instant, report, in part, the following resolution:

Resolved, That the following rules be observed in the choice by the House of Representatives of the President of the United States, whose term is to commence on the fourth day of March next.

1st. In the event of its appearing, upon the counting and ascertaining of the votes given for President and Vice President, according to the mode prescribed by the Constitution, that no person has a Constitutional majority, and the same shall have been duly declared and entered on the journals of this House, the Speaker, accompanied by the members of this House, shall return to their Chamber.

2d. Seats shall be provided in this House for the President and members of the Senate; and notification of the same shall be made to the Senate.

3d. The House, on their return from the Senate Chamber, it being ascertained that the Constitutional number of States are present, shall immediately proceed to choose one of the persons from whom the choice is to be made for President; and in case upon the first ballot there shall not appear to be a majority of the States in favor of one of them, in such case the House shall continue to ballot for a President, without interruption by other business, until it shall appear that a President is duly chosen.

4th. After commencing the balloting for President, the House shall not adjourn until a choice be made.

5th. The doors of the House shall be closed during the balloting, except against the officers of the House.

6th. In balloting, the following mode shall be observed, to wit: The representatives of the respective States shall be so seated that the delegation of each State shall be together. The representatives of each State shall, in the first instance, ballot among themselves, in order to ascertain the vote of that State; and it shall be allowed, where deemed necessary by the delegation, to name one or more persons of the representation, to be tellers of the ballots. After the vote of each State is ascertained, duplicates thereof shall be made; and in case the vote of the State be for one person, then the name of that person shall be written on each of the duplicates; and in case the ballots of the State be equally divided, then the word "divided" shall be written on each duplicate, and the said duplicates shall be deposited in manner hereafter prescribed, in boxes to be provided. That, for the conveniently taking the ballots of the several representative of the respective States, there be sixteen ballot boxes provided for the purpose of receiving the votes of the State; that after the delegation of each State shall have ascertained the vote of the States the Sergeant-at-Arms shall carry to the respective delegations the two ballot boxes, and the delegation of each State, in the presence and subject to the examination of the members of the delegation, shall deposit a duplicate of the vote of the State in each ballot box; and where there is more than one representative of a State the duplicates shall not both be deposited by the same person. When the votes of the States are all thus taken in, the Sergeant-at-Arms shall carry one of the general ballot boxes to one table, and the other to a second and separate table. Sixteen members shall then be appointed as tellers of the ballots; one of whom shall be taken from each State and be nominated by the delegation of the State from which he was taken. The said tellers shall be divided into two equal sets, according to such agreement as shall be made among themselves; and one of the said sets of tellers shall proceed to count the votes in one of the

said boxes, and the other set the votes in the other box; and in the event of no appointment of teller by any delegation, the Speaker shall in such case appoint. When the votes of the States are counted by the respective sets of tellers, the result shall be reported to the House; and if the reports agree, the same shall be accepted as the true votes of the States; but if the reports disagree, the States shall immediately proceed to a new ballot, in manner aforesaid.

7th. If either of the persons voted for shall have a majority of the votes of all the States, the Speaker shall declare the same; and official notice thereof shall be immediately given to the President of the United States and to the Senate.

8th. All questions which shall arise after the balloting commences, and which shall require the decision of the House, shall be decided without debate.

Resolved, That this House will consider the said report on Monday next.

Mr. HARPER, from the committee appointed, presented a bill to continue in force the act entitled "An act to augment the salaries of the officers therein mentioned;" which was read twice and committed to a Committee of the whole House on Monday next.

Mr. OTIS from the committee appointed, presented a bill supplementary to an act, entitled, "An act to divide the Territory of the United States Northwest of the Ohio, into two separate governments;" which was read twice and committed to a Committee of the Whole House on Monday next.

Mr. HARPER, from the committee appointed, presented, a bill to extend to aliens who arrived and became residents in the United States, before a certain period, the benefits of the act of one thousand seven hundred and ninety-five, on the subject of naturalization; which was read twice and committed to a Committee of the Whole on Monday next.

The House, went into a Committee of the Whole on the bill to amend the act, entitled "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States, and to repeal the act, entitled "An act to enlarge the powers of the Surveyors of the Revenue;" and, after some time spent therein, the Committee rose, reported progress, and had leave to sit again.

MONDAY, February 9.

Ordered, That the Committee of Claims, to whom was referred, on the thirtieth ultimo, the memorial of sundry clerks employed in the different departments, be discharged from the further consideration thereof, and that the same be referred to the Committee of Revisal and Unfinished Business.

Mr. RUTLEDGE, from the Committee appointed on the part of this House, jointly, with the Committee on the part of the Senate, to ascertain and report a mode of examining the votes given for President and Vice President of the United States; of notifying the persons elected of their election, and the time, place, and manner of administering the oath of office to the President, reported that

the Committee had taken the subject referred to them under consideration, but had come to no agreement thereupon.

A message from the Senate, informed the House that the Senate would be ready to receive the House in the Senate Chamber, on Wednesday next, at twelve o'clock, for the purpose of being present at the opening and counting of the votes for President of the United States; and that the Senate have appointed a teller on their part, to make a list of the votes for President of the United States as they shall be declared.

RULES FOR ELECTION OF PRESIDENT.

The House proceeded to consider the report made on Friday last, from the committee appointed to prepare and report rules proper to be observed in the choice of a President of the United States: Whereupon,

Ordered, That the said report be committed to a Committee of the whole House immediately.

The House, accordingly, resolved itself into a Committee of the Whole on the said report; and, after some time spent therein, the Chairman reported that the committee had had the said report under consideration, and directed him to report to the House their agreement to the same, with an amendment; which he delivered in at the Clerk's table, where the same was read. The House then proceeded to consider the report: Whereupon, the amendment reported from the Committee of the whole House to the said report, was, on the question put thereupon, agreed to by the House.

A motion was then made and seconded that the House do disagree with the Committee of the whole House in their agreement to the fourth rule contained in the said report, in the words following, to wit:

"4th. After commencing the balloting for President, the House shall not adjourn until a choice is made:"

And, the question being taken thereupon, it passed in the negative—yeas 47, nays 53, as follows:

YEAS—Willis Alston, George Baer, Theodorus Bailey, Phanuel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William Charles Cole Claiborne, John Condit, John Dawson, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Gallatin, Samuel Goode, Edwin Gray, John A. Hanna, Joseph Heister, David Holmes, George Jackson, Aaron Kitchell, Michael Leib, Levi Lincoln, Matthew Lyon, James Lynn, Edward Livingston, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Robert Page, John Randolph, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, John Stewart, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Littleton W. Tazewell, Philip Van Cortlandt, and Joseph B. Varnum.

NAYS—Bailey Bartlett, James A. Bayard, John Bird, John Brown, Christopher G. Champlin, William Cooper, William Craik, John Davenport, Franklin Davenport, Thomas T. Davis, John Dennis, George Dent, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Andrew Gregg,

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Roger Griswold, William Barry Grove, Robert Goodloe Harper, Archibald Henderson, William H. Hill, Benjamin Huger, James H. Inlay, Henry Lee, Silas Lee, Ebenezer Mattoon, Lewis R. Morris, Abraham Nott, Harrison G. Otis, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, Nathan Read, John Rutledge, William Shepard, John C. Smith, James Sheafe, Samuel Tenney, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, Robert Williams, Lemuel Williams, and Henry Woods.

A motion was then made and seconded that the House do disagree with the Committee of the whole House in their agreement to the fifth rule contained in the said report, in the words following, to wit:

"5th. The doors of the House shall be closed during the balloting, except against the officers of the House:"

And, the question being taken thereupon, it passed in the negative—yeas 45, nays 54, as follows:

YEAS—Willis Alston, Theodorus Bailey, Phanuel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William Charles Cole Claiborne, John Condit, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Gallatin, Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, George Jackson, Michael Leib, Matthew Lyon, Edward Livingston, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, John Randolph, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, John Stewart, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Littleton W. Tazewell, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

NAYS—George Baer, Bailey Bartlett, James A. Bayard, John Bird, John Brown, Christopher G. Champlin, William Cooper, William Craik, John Davenport, Franklin Davenport, John Dennis, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glen, Samuel Goode, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Archibald Henderson, William H. Hill, Benjamin Huger, James H. Inlay, Henry Lee, Silas Lee, Levi Lincoln, James Lynn, Ebenezer Mattoon, Lewis R. Morris, Abraham Nott, Harrison G. Otis, Robert Page, Josiah Parker, Thomas Pinckney, Jonas Platt, Levin Powell, John Reed, Nathan Read, John Rutledge, William Shepard, John C. Smith, James Sheafe, Samuel Tenney, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

Resolved, That this House doth agree with the Committee of the whole House in their agreement to the said report, as amended, in the words following, to wit:

"That the following rules be observed in the choice by the House of Representatives of a President of the United States, whose term is to commence on the fourth day of March next.

"1st. In the event of its appearing, upon the counting and ascertaining of the votes given for President and Vice President, according to the mode prescribed by the Constitution, that no person has a Constitutional majority, and the same shall have been duly declared and entered on the Journals of this House, the Speaker,

accompanied by the members of the House, shall return to their Chamber.

"2d. Seats shall be provided in this House for the President and members of the Senate; and notification of the same shall be made to the Senate.

"3d. The House, on their return from the Senate Chamber, it being ascertained that the Constitutional number of States were present, shall immediately proceed to choose one of the persons from whom the choice is to be made for President; and in case upon the first ballot there shall not appear to be a majority of the States in favor of one of them, in such case the House shall continue to ballot for a President, without interruption by other business, until it shall appear that a President is duly chosen.

"4th. After commencing the balloting for President, the House shall not adjourn until a choice be made.

"5th. The doors of the House shall be closed during the balloting, except against the officers of the House.

"6th. In balloting, the following mode shall be observed, to wit: The representatives of the respective States shall be so seated that the delegation of each State shall be together. The representatives of each State, shall, in the first instance, ballot among themselves, in order to ascertain the votes of the State; and it shall be allowed, where deemed necessary by the delegation, to name one or more persons of the representation, to be tellers of the ballots. After the vote of each State is ascertained, duplicates thereof shall be made; and in case the vote of the State be for one person, then the name of that person shall be written on each of the duplicates; and in case the ballots of the State be equally divided, then the word "*divided*" shall be written on each duplicate, and the said duplicates shall be deposited in manner hereafter prescribed, in boxes to be provided. That, for the conveniently taking the ballots of the several representatives of the respective States, there be sixteen ballot boxes provided; and that there be, additionally, two boxes provided for the purpose of receiving the votes of the States; that after the delegation of each State shall have ascertained the vote of the State, the Sergeant-at-Arms shall carry to the respective delegations the two ballot boxes, and the delegation of each State, in the presence and subject to the examination of all the members of the delegation, shall deposit a duplicate of the vote of the State in each ballot box; and where there is more than one representative of a State, the duplicates shall not both be deposited by the same person. When the votes of the States are all thus taken in, the Sergeant-at-Arms shall carry one of the general ballot boxes to one table, and the other to a second and separate table. Sixteen members shall then be appointed as tellers of the ballots; one of whom shall be taken from each State, and be nominated by the delegation of the State from which he was taken. The said tellers shall be divided into two equal sets, according to such agreement as shall be made among themselves; and one of the said sets of tellers shall proceed to count the votes in one of the said boxes, and the other set the votes in the other box; and in the event of no appointment of teller by any delegation, the Speaker shall in such case appoint. When the votes of the States are counted by the respective sets of tellers, the result shall be reported to the House; and if the reports agree, the same shall be accepted as the true votes of the States; but if the reports disagree, the States shall immediately proceed to a new ballot, in manner aforesaid.

"7th. If either of the persons voted for, shall have a majority of the votes of all the States, the Speaker shall

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declare the same; and official notice thereof shall be immediately given to the President of the United States, and to the Senate.

"8th. All questions which shall arise after the balloting commences, and which shall be decided by the House voting *per capita* to be incidental to the power of choosing the President, and which shall require the decision of the House, shall be decided by States, and without debate; and in case of an equal division of the votes of States, the question shall be lost."

TUESDAY, February, 10.

INTERCOURSE WITH FRANCE.

Mr. S. SMITH, Chairman of the Committee of Commerce and Manufactures, reported, according to order, "A bill to continue in force an act further to suspend the commercial intercourse between the United States and France and the dependencies thereof.

The existing act is limited to continue in force till the 3d of March next, the bill now reported, re-enacts it to continue till the 3d day of March, 1802. It was once read, and on the question whether it should be read a second time,

Mr. DAVIS hoped it would not have a second reading. Every step which was taken with a law so obnoxious, must not only wound our recent accommodation with France, but also our merchants and planters engaged in trade with that nation, and afford means of speculation. He moved that the bill be rejected.

Mr. S. SMITH hoped it would be rejected. Conformable to his duty as chairman of the committee he had reported the bill, but had by no means assented to that measure. He saw no use whatever in it; he saw much evil in it, and in every step which was advanced towards re-establishing it. He observed with pleasure a proclamation issued by the Government of Guadaloupe to deliver up captured property conformable to the fourth and seventeenth articles of the mutual convention; that proclamation also completely arrested all future captures by their privateers. In the present posture of affairs, what possible reason could be adduced in favor of this bill? In the committee he said he was alone in his aversion to this law; he wished to postpone it for some time at least. He hoped gentlemen would consider their strength, and, if they were not able to carry the bill through, would suffer its immediate destruction, otherwise the inevitable effect of loss must rest on the tobacco planter.

Mr. LIVINGSTON presumed, as this bill had been reported, there were some gentlemen in favor of it, and he supposed if any were in favor of it, they could give the reasons of their conduct. He most sincerely wished to hear them, for really he could conceive none. He declared himself to be astonished at finding the House engaged in the re-enaction of this law when he entered it this morning: he was astonished because the very face of the law carried its own destiny. It declared that whenever the President should be convinced that commerce could be safely renewed with France, he should have power to renew it.

There had been several instances wherein our vessels had been treated upon neutral grounds, and there appeared to be a general disposition that it should be so. Can any gentleman in this House doubt that that state of things *actually* exists which this bill predicates? If there are any such, let them answer, and give their reasons. If they do not, they are bound to join in the rejection of the bill.

It was not a very common course, he said, to stop a law on its first reading, but if ever there was a state of things which demanded it, this was it. All the American commercial men engaged in its support when it first passed; it passed from the extreme necessity of the case, and in assenting to it all our commercial men sustained a vast sacrifice—a sacrifice which only the occasion could justify. But now the state of things is altogether changed; the necessity and the danger have entirely ceased: a convention of amity has been formed with that nation. What answers, then, this ill-advised spirit of acrimony? Where is the necessity now of the measure? What answer can they give to the planters in Virginia, whose produce must remain on their hands, when they ought to have a market, and a good price for it? What, he would ask those gentlemen, had been acquired by this two years' suspension of the intercourse with France? At that time, said Mr. L., we submitted, when they so pressingly supported the bill, but it is out of their power longer to make us, or to make the country believe, that there is necessity for the measure, so wounding to our own country. Nothing can prevent us receiving with pleasure the accommodation now proposed, or make us again open the wounds of our separation. Nothing remains respecting that convention but an acquiescence in the part of France to an article which was inserted at the instance of our negotiators, and consequently its expulsion will be received with pleasure by the nation. Will, then, not one solitary advocate for this bill arise, and give his reasons why the prohibition should be renewed? It really appears to me a measure of the most extraordinary nature: it is bordering on *insanity*. No man dares vindicate it! No man advocates what he assisted in promoting! If it is to be carried into effect, I hope it will not be carried into effect with a sullen silence, tending to insult the understanding of the nation.

Mr. RUTLEDGE did not know that the reasons would be very agreeable to the gentleman who had ascribed them to "insanity," but he might be assured there were reasons for the measure, and such as its advocates would not be ashamed to acknowledge. Not being a member of the Committee of Commerce he could not give their reasons, but though the gentleman thought there was not one solitary reason to be advanced he would give his reasons. He wished to let France know that the productions of our country were useful to her, and that we would rather let them rot in our own country, than expose such weakness to her as to make her believe we must at all events bring them to market. Sir, said Mr. R., we are

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about to open a new negotiation with France, and yet before sending our Envoys we will be so extremely weak as to send our produce to her, and thus expose our extreme cupidity and desire at all events to get money. The object of France in negotiating with our country is to trade with us, but by this measure we shall give them our trade without the conclusion of negotiation! What injury can it be? Has not the President power to renew the trade whenever, in his opinion circumstances will warrant it? What then can gentlemen have to fear, when the gentleman to fill that office is of their own choosing? Do they not suppose that the gentleman whom they have made President will suspend the law as soon as it is unnecessary? They tell us that France has called in her cruisers. How is this known? by newspaper testimony! Our property is liberated, they say. How are we to know this? It is not the fact; no merchant will rise and tell us so. I acknowledge, sir, that many of our vessels have been released; but why was it? By large and valuable *douceurs*! This the Chairman of the Committee of Commerce well knows, and every merchant is acquainted with it. Sir, we have lately seen a ship belonging to a member of this House released; but why was it done? It was because the American Consul actually paid a large sum as a *douceur*. It is known that the New Jersey was not obtained till near \$200,000 was paid down, and yet we are told that our ships are liberated! Sir, we have taken our ground; we have determined upon defence and sacrifice, to preserve our national honor; and, except the most unequivocal proofs are given of the removal of the causes, we will not depart from those measures which have proved so salutary.

The gentleman supposed that the treaty is concluded, because the project of the article he says came from our Envoys. How does he know this? How does he know that the French Government do not regard this article? If France should not be disposed to adopt this treaty so modified; if she should wish to carry on her old practices, we wish to tell her that we are not afraid of her, nor have we been willing to hearken to the uncertain accents which merely sounded peace in our ears. These, Mr. R. said, were his reasons for wishing not to be too hasty in renewing the intercourse, and in these he believed his friend would coincide.

Mr. EGGLESTON said he had often heard this kind of argument from the gentleman who had just sat down. He appeared to be very fond of indulging his visionary ideas at other people's expense, and with very great levity to talk upon a subject which was of the most important nature to the country he (Mr. EGGLESTON) represented, [Virginia.] He wished to remind the House that a very important part of the community had suffered exceedingly under this law for two years past, not only the growers of tobacco, but the merchants. He trusted no greater impositions would be put upon that particular part of the community. The gentleman knew very well that rice, the staple commodity of his country, (South

Carolina,) was in great demand everywhere, and would bring a good price; but it was not so with tobacco, an article principally consumed in that country with which we had been prohibited to trade. He hoped no other gentleman would be of the same principles, and that his constituents would have the same chance for their produce, (tobacco,) as was enjoyed by other parts of the Union for their produce.

Mr. RUTLEDGE said the gentleman was mistaken; he represents a tobacco country as a country which produces rice; but I will tell him that rice brings twice as much in France as in England, and, therefore, on the score of benefit, I am individually interested. But, to views of pecuniary advantage, I prefer the great question of national policy. I am disposed to yield all for my country's benefits; I believe the gentleman's principles are the same, but I think he is mistaken in his efforts to procure the good of the whole.

Mr. DENNIS moved a postponement till Monday.

Mr. S. SMITH moved to postpone till the third of March. He wished to show the American people that the law was not to be re-enacted, and not to keep them in suspense for even a day. Some indistinct idea having dropped from Mr. RUTLEDGE that Mr. S. knew of no *douceurs* having been taken for the delivery up of vessels which had been captured, which he was unwilling to own—Mr. S. said he knew of no vessel whatever which had been bought out since the convention was sent from France. Whatever had occurred before that period was not to the purpose. He was proceeding to state some cases, when Mr. HARPER asked whether it would be in order to answer. The SPEAKER observed that it would not, because the gentleman was not in order—the question being on postponement.

Mr. NICHOLAS hoped it would not be postponed, because, although the time mentioned should be the third of March, the price of tobacco would be exceedingly depressed by it.

Mr. SMITH withdrew his motion, and Mr. FOWLER renewed it.

Mr. RANDOLPH spoke against both motions; he wished to settle the public mind; for, he observed, ever since the negotiation had been in agitation, the price of tobacco had fluctuated like the stocks. The uncertainty of the fate of this law would produce a species of gaming (speculation) which must be very injurious to the honest dealers. He hoped both merchants and planters would immediately know what was the certain fate of the bill, and that this nefarious gambling system would be cut short, and an instant decision be had upon a question so interesting to a respectable portion of the people.

The motion to postpone to the third of March was again withdrawn.

A motion was made to postpone the further discussion of the bill till Monday.

Mr. H. LEE said, if the circumstances were as they were last year, he should contend for the continuance of this act, but our relations with that country were changed. He asked, what

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would the world say if, while the President and Senate of the United States had actually agreed to a convention of amity and commerce with France, the Legislature should pass this act to continue our non-intercourse? It certainly would look like an act of the most degrading duplicity. He hoped the bill would be rejected.

Mr. MACON.—If the House postpone this bill till Monday, it cannot fail of having an evil effect upon the trade in the article of tobacco, for the persons concerned are now making arrangements to sell and to ship it: the only object of this bill is to make the thing as uncertain as before. So fluctuating is the price of the article upon the event of the day, that when our Ministers came from France with the treaty, tobacco rose 50 per cent. upon the prospect of a peace with that country. If the majority of the House should think fit to continue the law, the sooner the merchants know it the better, as it would bring the trade to a more settled state, and enable them to make their arrangements conformably thereto.

Mr. J. C. THOMAS said he seconded the motion to postpone, because it was a subject of very considerable importance, upon which he had not sufficiently turned his attention. As to the fear of speculation, a rejection of the bill, in his opinion, afforded the most ample means to carry on that scheme. If the postponement should take place, how could any man say what would be the event of the bill? The moment it was known that the bill was lost, speculations would fly in every quarter. But why should the House legislate under any impressions of the kind? They were called to decide upon a great and important political question, and should they withhold going in the right path, whatever it might be, through fear of speculation? He hoped not. For this cause he advocated the motion.

Mr. LIVINGSTON said when he first rose he expressed his desire that some reason for the introduction of the bill should be given. Two reasons were assigned to show that we must continue our attitude towards France: one was, that we must preserve the dignity of our character; the other, that we must keep the old means until the conclusion of the negotiation. This dignity of character he would be as unwilling to sacrifice as any gentleman in the House, but he did not conceive it to consist in the high-sounding words used by some gentlemen. What, he asked, was dignity of character? Does it consist in impoverishing ourselves? This, to be sure, must be a very dignified effect. Some gentlemen might sit with their hands to their sides, and brave all the world, not thinking of the situation of those who lose three-fourths of the result of their labor. All that these gentlemen boastingly sacrifice is felt in another quarter; what is dignity of attitude to them, is distress to other parts of the Union. From the most accurate accounts, then, this dignity of character is nothing. What effect will it have on our negotiation, now again renewed? To examine this it will be necessary to inquire what does France want, or what did she want at the time this bill first passed. Gentlemen at that

time thought that without food from us, their West India colonies could not subsist, or have means to carry on their aggressions upon our commerce. The experiment was made, but was it found to answer the effect? Did she not attack our commerce with equal violence? Tobacco is allowed to be the principal article exported from us to France, except our flour to the West Indies, without which she has subsisted, and carried on her warfare. What is the article of tobacco? It is an article we shall ever be willing to get rid of, rather than prohibit our merchants from selling. How, then, can we coerce France by it? Are we to remain in this situation till their treaty returns to this country? They tell us, to be sure, that the President has it in his power to put an end to the force of this bill, but from the common course of things, it is certain that the President never will put an end to the bill, till the treaty is completed. And who are injured by it? Not France, for gentlemen confess that they can procure this article without our aid. It must be ourselves.

But, say gentlemen, France will open her ports; she will receive our produce, and then she will add these additional millions to what she has before seized from us, and disregard our treaty. If there was any foundation on which to hang such a suspicion, Mr. L. said he would not merely vote for the suspension for one year, but forever. But where was the foundation for such distrust? He could see none, and believed there was none. The gentleman from Massachusetts presented this dilemma: either the House must believe the treaty would not go into operation, or it was a very uncertain event. Now, between these two, Mr. L. thought there might be a mean supposed, that is, that it was a probable event that it would be carried into execution; this was the middle way he chose to take as a foundation. He thought the possibility bordering upon certainty: he thought the probability so great as to justify any measures being founded thereupon. But, gentlemen say, we must take nothing upon probability, because, as soon as it is certain, the President can act conformable to circumstances, which he must be most acquainted with. Upon this point, Mr. L. was perfectly satisfied; he did believe France to be sincere, and he further believed that condition with which we had ratified the treaty, would be no hindrance to its final passage. He was well satisfied that the second article, which was erased, was inserted at the instance and even the desire of our Commissioners. Believing this, he could not conceive they would make excuses to evade its ratification. This brought him to another reason for objection which was urged. Could any gentleman believe France would act so perfidiously as to desire and promote this treaty, on purpose to induce us to send our produce to that country, which she would seize? Did he suppose that nation so base, he would never agree to open the communication at all, without other assurances. If gentlemen thought this, they ought not to rest here; their duty requires them to put a perpetual end to commercial intercourse with a nation

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whose faith was so bad. But it was no such thing—he believed there was good faith in that nation, and that we had received as good assurances of it as could be expected. He hoped a majority of the House believed so, and that no delay would take place in promoting an accommodation in which ourselves would be gainers. He believed the interests of the country called upon the House for immediate action, and therefore hoped that an end would be put to any doubt on the subject.

Mr. WALN thought gentlemen were mistaken in supposing that the non-intercourse with that nation was only felt by the Southern States; he believed it was as severely felt by every commercial town in the Union, whether southward of the Delaware or eastward. Every gentleman knew that the spirit of adventure in the Eastern States, would excite them to carry their commerce as extensively as possible, and that, though not the growers of that species of produce, they were the carriers of it, and were interested in its increasing exportation. But for his part he wished not to be so confined in his ideas to the interest of this or of that State, but to the United States. He did believe that the result of the measures now taking to produce accommodation, was yet uncertain. As a ground of argument, the article of tobacco had been mentioned, and its rise and fall called forth to prove the fluctuating state of political appearances. But for his part he believed that changeableness arose from the amounts of the crops. He would appeal to gentlemen who were, from their local knowledge, acquainted with the price of that article, whether in times of plentiful crops, it was not as low as at the present moment. And, upon this, whether the last crop of tobacco was not very great? He believed it was so, and if so, why should that be considered as proper data for a national concern of such moment? He believed that this, as well as many other prohibited articles, found its way to France, and that this small increase in the price but very little lessened its consumption. He would appeal to the understandings of gentlemen, whether there could be a more inauspicious moment to open the communication than at present? It was the desire of the Committee to wait a few days to know the result of the treaty before the Senate: if that had been signed unconstitutionally, the law would not have been reported, but as it was not, the possibility of evil alone was a sufficient warrant for the continuance of the law for such time as circumstances might continue the same. He could not believe the policy of the country would warrant the immediate opening of intercourse, and, therefore, should vote for the bill.

Mr. GALLATIN said, as he last session voted for this bill, it was proper for him to state the reasons why he now voted against it. The measure was originally adopted as a defensive measure: circumstances being little different last session, and a treaty being on the tapis, he thought it would be wrong policy then to change it; but now the state of things was altogether changed. As he conceived, a safe intercourse with every foreign

nation could not fail to produce general advantages, he should now, upon the idea of safety, vote that the suspension be taken off. The House were told that the same negotiation was pending, and therefore the measures ought to be the same. He thought very differently: last session there was only the appearance of a treaty; it was a question of uncertainty whether it would be concluded. But at present we know the precise state of things, and no gentleman in the House can doubt as to the acquiescence of France in the modification we have made. It is true that France may make this an excuse to refuse the treaty, and that they may possibly seize our produce sent there under the impressions of their good faith. But if such was her disposition, was it not to be supposed that she would have treated with us before now, on purpose to draw our commerce into her clutches for seizure? He thought the prospect was as favorable, and the moment as safe as ever it would be, and to leave it to the President was at least to suspend it till the final ratification. It was properly a legislative question, and as it originated in Congress, in the same branch it should expire, and not be confided to Executive pleasure. Anything confided to the Executive, is so upon the supposition of a change of circumstances during the recess of the Legislature. Why should the House leave to the President to do what it was not only alone competent to, but what every consideration of amity declared ought to be done without fail? It is impossible to say what circumstances may take place after the third of March, or how our relations with any nation may stand, but we must go upon present circumstances; we must only view the present state of things.

Mr. S. SMITH replied to Mr. WALN, in his declaration that every commercial part of the Union felt as much as Virginia the want of this trade. It was not so; the tonnage of the United States was now fully employed; if they could not go to France direct, they could and they would go to England, and she received the benefit which the planters lost. He appealed to the gentleman's commercial knowledge, whether there ever was such an immensity of tonnage employed as at present, and whether ever freight was so high. There never was a time in which our shipping was more used. He further answered the gentleman in his assertion that the great crops made the difference of price. How could that be? The last crop was very great. From a comparison of the former period to the present, when the quantity of that crop must be felt, there was a difference of two dollars a hundred. It was now advanced from \$3 50 to \$5 50, or \$6; which advance he believed beyond a doubt arose from the appearances of accommodation with France. An argument advanced by an officer of the Government the other day, he believed to be very just: That now she had called in her privateers and altered her system towards us, if we refused her our trade, she would not think we were honest in our professions of friendship. What course would they take? Why, most probably send them out

again, and force from us what our diffidence in their friendship prevented us selling them.

Mr. C. GOODRICH was not willing to trust our trade in the present uncertain situation. He believed from the best information, that every step taken towards negotiation by our Envoys was taken with difficulty; and that every possible care was taken by France not to lose an article. He wished as much as any gentleman to see the trade opened with safety, but till it could be done with safety, he was not willing to take a step towards it. He would leave it with the President, whose information must at any time be adequate to take the proper steps.

Mr. CHAMPLIN renewed the motion to postpone till Monday.

The yeas and nays were taken on this motion, which was carried in the negative—yeas 40, nays 59, as follows:

YEAS—Bailey Bartlett, John Bird, Christopher G. Champlin, William Cooper, John Davenport, Franklin Davenport, John Dennis, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Archibald Henderson, William H. Hill, Benjamin Huger, James H. Inlay, Ebenezer Mattoon, Lewis R. Morris, Harrison G. Otis, Josiah Parker, Thomas Pinckney, Jonas Platt, John Reed, Nathan Read, John Rutledge, William Shepard, John C. Smith, James Sheafe, Samuel Tenney, George Thatcher, John Chew Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

NAYS—Willis Alston, George Baer, Theodorus Bailey, James A. Bayard, Phaniel Bishop, John Brown, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, William Craik, Thomas T. Davis, John Dawson, George Dent, Joseph Dickson, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Gallatin, Samuel Goode, Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, George Jackson, Aaron Kitchell, Henry Lee, Michael Leib, Levi Lincoln, Matthew Lyon, James Lynn, Edward Livingston, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Abraham Nott, Robert Page, Leven Powell, John Randolph, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, John Stewart, Benjamin Taliaferro, Richard Thomas, John Thompson, Abram Trigg, John Trigg, Littleton W. Tazewell, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

The question recurring, to reject the bill, the yeas and nays were taken and it was decided in the affirmative—yeas 59, nays 37, as follows:

YEAS—Willis Alston, George Baer, John Bird, Phaniel Bishop, John Brown, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, William Craik, Thomas T. Davis, John Dawson, John Dennis, George Dent, Joseph Dickson, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Gallatin, Samuel Goode, Edwin Gray, Andrew Gregg, William Barry Grove, John A. Hanna, Joseph Heister, William H. Hill, David Holmes, George Jackson, Aaron Kitchell, Henry Lee, Michael Leib, Levi Lincoln, Matthew Lyon, Edward Livingston, Nathaniel Macon, Peter Muhlenberg, Anthony New,

John Nicholas, Robert Page, Leven Powell, John Randolph, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, John Stewart, Benjamin Taliaferro, John Chew Thomas, John Thompson, Abram Trigg, John Trigg, Littleton W. Tazewell, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

NAYS—Bailey Bartlett, James A. Bayard, Christopher G. Champlin, William Cooper, John Davenport, Franklin Davenport, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, Robert Goodloe Harper, Archibald Henderson, Benjamin Huger, Ebenezer Mattoon, Lewis R. Morris, Abraham Nott, Harrison G. Otis, Josiah Parker, Thomas Pinckney, Jonas Platt, John Reed, Nathan Read, John Rutledge, William Shepard, John C. Smith, James Sheafe, Samuel Tenney, George Thatcher, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

TREASURY AND WAR OFFICES.

Mr. HARPER said that he wished to call the attention of the House to a subject which had become interesting to its own honor and the honor of the nation. It was the subject of the calumnies so industriously propagated respecting the fires in the Treasury and War Departments, especially the former. Had those calumnies, sir, said Mr. H. continued to be confined to certain gazettes in this country, whose daily occupation everybody knows it is to invent and promulgate slanders at once the most absurd and the most atrocious against the Government, and all who are attached to it or concerned in its administration, I for one should certainly have continued to regard them with the profoundest contempt; for I well know that filth thus thrown, cannot tarnish the reputation of men of honor and character, much less of the Government itself. But, Mr. Speaker, these calumnies have assumed a far more imposing and dangerous form. They are uttered, sir, by men in this place, (it will not certainly be supposed that I allude to any honorable member of this House.) They are uttered, sir, by men in this place, whose stations give weight to their testimony, and must be considered, in distant parts of the country especially, as entitling their assertions to belief. Yes, sir, there are found men in this place, men, too, let me repeat it, whose stations gave weight to their testimony, and who are profligate enough, far enough lost to all sense of honor, truth, and decency, to state in private letters, as a fact fully established and admitted, that the War and Treasury offices, especially the latter, were set on fire by the chief officers themselves, in order to destroy the evidences of their own peculation. This abominable calumny, sir, one of the foulest and most malicious that party spirit has yet fabricated, is asserted as a well known fact by letters from this place, written by men of station and name. I know the fact, sir; I state it on the authority of competent and sufficient testimony. Those letters are handed about, and their contents are industriously circulated in other letters, which disseminate them though all parts of the country. Since this calumny has assumed such a shape;

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since it is thus propagated and supported, it is necessary to crush it by an authentic inquiry. It becomes necessary to investigate the subject, that the truth may be displayed to the eyes of the nation thus attempted to be abused and misguided. For this purpose I move the following resolution:

Resolved, That a committee be appointed to inquire into the causes of the late fires in the War and Treasury Departments, and to report their opinion thereon to the House, with such facts and documents as may, in their opinion, be necessary for explaining the subject fully. And that the said committee have power to send for persons, papers and records."

The resolution was adopted, and a committee of seven appointed. The following members were named on the committee.

MESSRS. NICHOLAS, MACON, LIVINGSTON, GAL-LATIN, VARNUM, HARPER, and WALN.

CREDENTIALS OF MEMBERS.

Mr. DENT, from the Standing Committee of Elections, made a report; which he delivered in at the Clerk's table, where the same was read, and is as follows:

"The Committee of Elections, having examined the credentials of several members claiming seats in this House, report:

"That, by two certificates of the Governor of Massachusetts under seal of the State, and dated the ninth day of January, one thousand eight hundred and one, it appears by one of the said certificates that Ebenezer Mattoon is duly elected to serve as a member of the House of Representatives of the United States, in the place of Samuel Lyman, stated therein to have resigned; and, by the other certificate, that Levi Lincoln is duly elected as aforesaid, in the place of Dwight Foster, appointed a Senator of the United States.

"It appears, also, by a letter under the signature of the Governor of Pennsylvania, dated the twenty-first day of January, one thousand eight hundred and one, and addressed to the Speaker, accompanied by authenticated documents, that John Stewart is duly chosen, in the place of Thomas Hartley, deceased.

"The committee are of opinion that Ebenezer Mattoon is entitled to a seat, in the place of Samuel Lyman, resigned; Levi Lincoln, in the place of Dwight Foster, appointed a Senator of the United States; and John Stewart, in the place of Thomas Hartley, deceased."

ELECTION OF PRESIDENT.

Mr. BAYARD moved an additional rule in relation to the Presidential election, viz: that five hundred tickets should be printed, on which should be the name of Thomas Jefferson, and five hundred on which should be the name of Aaron Burr, and that the members in balloting should be confined exclusively to these.

The SPEAKER requested Mr. BAYARD to modify his motion, so that six hundred tickets should be printed, and that after Thomas Jefferson, should be printed "of Virginia," and after Aaron Burr, "of New York," as he (the Speaker) had given directions to this effect; to which Mr. BAYARD agreed.

The question was taken that the House do agree to the same, and it passed in the negative—yeas 36, nays 59, as follows:

YEAS—Bailey Bartlett, James A. Bayard, John Bird, John Brown, William Cooper, John Davenport, Franklin Davenport, John Dennis, Joseph Dickson, William Edmond, Abiel Foster, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, Wm. B. Grove, Robert G. Harper, Archibald Henderson, Benjamin Huger, Henry Lee, Lewis R. Morris, Abraham Nott, Harrison G. Otis, Thomas Pinckney, Jonas Platt, Leven Powell, Nathan Reed, John Rutledge, jr., William Shepard, John C. Smith, James Sheafe, Samuel Tenney, George Thatcher, John Chew Thomas, Richard Thomas, and Lemuel Williams.

NAYS—Willis Alston, George Baer, Theodorus Bailey, Phanuel Bishop, Robert Brown, Samuel J. Cabell, Christopher G. Champlin, Gabriel Christie, Matthew Clay, William Charles Cole Claiborne, John Condit, William Craik, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, Thomas Evans, John Fowler, Albert Gallatin, Samuel Goode, Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, William H. Hill, David Holmes, George Jackson, Aaron Kitchell, Michael Leib, Levi Lincoln, Matthew Lyon, James Linn, Edward Livingston, Nathaniel Macon, Ebenezer Mattoon, Peter Muhlenberg, Anthony New, John Nicholas, Robert Page, Josiah Parker, John Randolph, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, John Stewart, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Littleton W. Tazewell, Philip Van Cortlandt, Joseph B. Varnum, Peleg Wadsworth, Robert Williams, and Henry Woods.

Resolved, That this House will attend in the Chamber of the Senate, on Wednesday next, at twelve o'clock, for the purpose of being present at the opening and counting of the votes for PRESIDENT and VICE PRESIDENT of the United States; that Mr. RUTLEDGE and Mr. NICHOLAS be appointed tellers, to act jointly with the teller appointed on the part of the Senate, to make a list of the votes for PRESIDENT and VICE PRESIDENT of the United States, as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce the state of the vote, which shall be entered on the Journals; and if it shall appear that a choice hath been made agreeably to the Constitution, such entry on the Journals shall be deemed a sufficient declaration thereof.

Ordered, That the Clerk of this House do acquaint the Senate therewith.

WEDNESDAY, February 11.

On motion, it was

Resolved, That all letters and packets to JOHN ADAMS, now President of the United States, after the expiration of his term of office, and during his life, may be transmitted by post, free of postage.

Ordered, That a bill, or bills, be brought in pursuant to the said resolution; and that Mr. OTIS, Mr. THATCHER, and Mr. SHEPARD, be appointed a committee to prepare and bring in the same.

ELECTION OF PRESIDENT.

On this day, being the day by law appointed for counting the votes of the Electors of PRESI-

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DENT and VICE PRESIDENT, there were present the following Representatives, respectively, that is to say:

From New Hampshire—Abiel Foster, Jonathan Freeman, James Sheafe, and Samuel Tenney.

From Massachusetts—Theodore Sedgwick, Speaker, John Reed, Joseph B. Varnum, William Shepard, Peleg Wadsworth, Silas Lee, Lemuel Williams, George Thatcher, Bailey Bartlett, Phanuel Bishop, Harrison G. Otis, Nathan Reed, Levi Lincoln, and Ebenezer Mattoon.

From Connecticut—John Davenport, Roger Griswold, Samuel W. Dana, Chauncey Goodrich, Elizur Goodrich, William Edmond, and John C. Smith.

From Vermont—Matthew Lyon, and Lewis R. Morris.

From Rhode Island—Christopher G. Champlin, and John Brown.

From New York—John Smith, Philip Van Cortlandt, Jonas Platt, Henry Glen, John Thompson, Theodorus Bailey, John Bird, William Cooper, Lucas Elmendorf, and Edward Livingston.

From New Jersey—James Linn, Aaron Kitchell, John Condit, James H. Inlay, and Franklin Davenport.

From Pennsylvania—Robert Brown, Albert Gallatin, Andrew Gregg, John A. Hanna, Joseph Heister, John Wilkes Kittera, Michael Leib, Peter Muhlenberg, John Smilie, John Stewart, Richard Thomas, Robert Waln, and Henry Woods.

From Delaware—James A. Bayard.

From Maryland—John Chew Thomas, Samuel Smith, Gabriel Christie, William Craik, Joseph H. Nicholson, George Dent, George Baer, and John Dennis.

From Virginia—Samuel J. Cabell, Matthew Clay, John Dawson, Joseph Eggleston, Thomas Evans, Samuel Goode, Edwin Gray, David Holmes, George Jackson, Henry Lee, Anthony New, John Nicholas, Robert Page, Josiah Parker, Leven Powell, John Randolph, Abram Trigg, John Trigg, and Littleton W. Tazewell.

From North Carolina—Willis Alston, Joseph Dickson, William Barry Grove, Archibald Henderson, William H. Hill, Nathaniel Macon, Richard Dobbs Spaight, Richard Stanford, David Stone, and Robert Williams.

From South Carolina—Robert Goodloe Harper, Benjamin Huger, Abraham Nott, Thomas Pinckney, and John Rutledge.

From Georgia—Benjamin Taliaferro.

From Kentucky—John Fowler, and Thomas T. Davis.

From Tennessee—William Charles Cole Claiborne.

MR. SPEAKER, attended by the House, then went into the Senate Chamber, and took seats therein, when both Houses being assembled, MR. RUTLEDGE and MR. NICHOLAS, the tellers on the part of this House, together with MR. WELLS, the teller on the part of the Senate, took seats at a table provided for them, in the front of the President of the Senate.

THE PRESIDENT of the Senate, in the presence of both Houses, proceeded to open the certificates of the Electors of the several States, beginning with the State of New Hampshire; and as the votes were read, the tellers on the part of each House, counted and took lists of the same, which, being compared, were delivered to the President of the Senate, and are as follows:

STATES.	Thomas Jefferson.	Aaron Burr.	John Adams.	Charles C. Pinckney.	John Jay.
New Hampshire - - -	-	-	6	6	
Massachusetts - - -	-	-	16	16	
Rhode Island - - -	-	-	4	3	1
Connecticut - - -	-	-	9	9	
Vermont - - -	-	-	4	4	
New York - - -	12	12			
New Jersey - - -	-	-	7	7	
Pennsylvania - - -	8	8	7	7	
Delaware - - -	-	-	3	3	
Maryland - - -	5	5	5	5	
Virginia - - -	21	21			
Kentucky - - -	4	4			
North Carolina - - -	8	8	4	4	
Tennessee - - -	3	3			
South Carolina - - -	8	8			
Georgia - - -	4	4			
	73	73	65	64	1

Recapitulation of the votes of the Electors.

Thomas Jefferson - - -	-	-	-	73
Aaron Burr - - -	-	-	-	73
John Adams - - -	-	-	-	65
Charles Cotesworth Pinckney - - -	-	-	-	64
John Jay - - -	-	-	-	1

THE PRESIDENT of the Senate, in pursuance of the duty enjoined upon him, announced the state of the votes to both Houses, and declared that THOMAS JEFFERSON, of Virginia, and AARON BURR, of New York, having the greatest number, and a majority of the votes of all the Electors appointed, and, being equal, it remained for the House of Representatives to determine the choice.

The two Houses then separated; and the House of Representatives, being returned to their Chamber, proceeded, in the manner prescribed by the Constitution, to the choice of a President of the United States, and the following members were appointed tellers of the respective States, to examine ballots of each State, pursuant to the sixth rule adopted by the House on the ninth instant, to wit:

For the State of New Hampshire, Abiel Foster; Massachusetts, Harrison G. Otis; Rhode Island, Christopher G. Champlin; Connecticut, Roger Griswold; Vermont, Lewis R. Morris; New York, Theodorus Bailey; New Jersey, James Linn; Pennsylvania, Albert Gallatin; Delaware, James A. Bayard; Maryland, George Dent; Virginia, Littleton W. Tazewell; North Carolina, Nathaniel Macon; South Carolina, Thomas Pinckney; Georgia, Benjamin Taliaferro; Kentucky, John Fowler; Tennessee, William Charles Cole Claiborne.

The members of the respective States then proceeded to ballot, in the manner prescribed by the rule aforesaid, and the tellers appointed by the

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States, respectively, having put duplicates of their votes into the general ballot boxes prepared for the purpose, the votes contained therein were taken out and counted, and the result being reported to the SPEAKER, he declared to the House that the votes of eight States had been given for THOMAS JEFFERSON, of Virginia; the votes of six States for AARON BURR, of New York; and that the votes of two States were divided.*

The Constitution of the United States requiring that the votes of nine States should be necessary to constitute a choice of President of the United States, a motion was made and seconded, that the ballot for the President be repeated in one hour; and, the question being taken by States, it passed in the negative.

The States then proceeded in the manner aforesaid, to a second ballot; and, upon examination of the ballot boxes, it appeared that the votes of eight States had been given for THOMAS JEFFERSON, of Virginia; and the votes of six States for AARON BURR, of New York; and that the votes of two States were divided.

The States then proceeded in like manner to a third ballot; and, upon examination thereof, the result was declared to be the same.

The States then proceeded in like manner to a fourth ballot; and, upon examination thereof, the result was declared to be the same.

The States then proceeded in like manner to a fifth ballot; and, upon examination thereof, the result was declared to be the same.

The States then proceeded in like manner to a sixth ballot; and, upon examination thereof, the result was declared to be the same.

The States then proceeded in like manner to a seventh ballot; and, upon examination thereof, the result was declared to be the same.

A motion was then made and seconded, that the States proceed again to ballot in one hour; and, the question being taken thereupon, it was resolved in the affirmative—the votes of the States being ayes 12, noes 4.

The time agreed upon by the last-mentioned vote being expired, the States proceeded, in manner aforesaid, to the eighth ballot; and, upon examination thereof, the result was declared to be the same, to wit:

The votes of eight States for THOMAS JEFFERSON, of Virginia; the votes of six States for AARON BURR, of New York; and the votes of two States were divided.

The States then proceeded to a ninth, tenth,

* During the time the States were employed in balloting, sundry messages from the President of the United States, from the Senate, and communications from Departments, were received, and reports from committees made; but, it being contrary to the rules established on the 9th instant for the House to take them into consideration at that time, they were taken up and acted upon after the balloting had been completed, and the final result declared. Among which documents was a Message from the President of the United States, concerning the disposition of the property of the United States now in his possession.

eleventh, twelfth, thirteenth, fourteenth, and fifteenth ballots; and, upon examination of the ballots, respectively, the result was declared to be the same.

A motion was then made and seconded, that the States proceed again to ballot at ten o'clock; and the question being taken thereupon, it passed in the negative—the votes of the States being ayes 7, noes 9.

Ordered, That the next ballot be repeated at nine o'clock, and not before.

The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner aforesaid to the sixteenth ballot; and upon examination thereof, the result was declared to be the same.

Ordered, That the ballot be repeated in one hour.

The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner aforesaid to the seventeenth ballot; and, upon examination thereof, the result was declared to be the same.

Ordered, That the ballot be repeated at eleven o'clock.

The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner aforesaid to the eighteenth ballot; and, upon examination thereof, the result was declared to be the same.

A motion was then made and seconded, that the ballot be repeated to-morrow at eleven o'clock, and not before.

The question being taken thereupon, it passed in the negative.

Ordered, That the ballot be repeated at twelve o'clock.

The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner aforesaid to the nineteenth ballot; and, upon examination thereof, the result was declared to be the same.

Ordered, That the ballot be repeated in one hour.

—
FEBRUARY 12—1 o'clock, A. M.

The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner aforesaid to the twentieth ballot; and, upon examination thereof, the result was declared to be the same.

Ordered, That the ballot be repeated at two o'clock.

The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner aforesaid to the twenty-first ballot; and, upon examination thereof, the result was declared to be the same.

Ordered, That the ballot be repeated at half after two o'clock.

The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner aforesaid to the twenty-second ballot; and, upon examination thereof, the result was declared to be the same.

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Ordered, That the ballot be repeated at four o'clock.

The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner as aforesaid to the twenty-third ballot; and, upon examination thereof, the result was declared to be the same.

Ordered, That the ballot be repeated at five o'clock.

The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner aforesaid to the twenty-fourth ballot; and, upon examination thereof, the result was declared to be the same.

Ordered, That the ballot be repeated at six o'clock.

The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner aforesaid to the twenty-fifth ballot; and, upon examination thereof, the result was declared to be the same.

Ordered, That the ballot be repeated at seven o'clock.

The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner aforesaid to the twenty-sixth ballot; and, upon examination thereof, the result was declared to be the same.

Ordered, That the ballot be repeated at eight o'clock.

The time agreed upon by the last mentioned vote being expired, the States proceeded in manner aforesaid to the twenty-seventh ballot; and, upon examination thereof, the result was declared to be the same.

Ordered, That the ballot be repeated at twelve o'clock, and not before.

The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner aforesaid to the twenty-eighth ballot; and, upon examination thereof, the result was declared to be the same.

Ordered, That the ballot be repeated to-morrow at eleven o'clock, and not before.

FEBRUARY 13.

The time agreed upon by the last mentioned vote being expired the States proceeded in manner aforesaid to the twenty-ninth ballot; and, upon examination thereof, the result was declared to be the same.

Ordered, That the ballot be repeated to-morrow at twelve o'clock, and not before.

FEBRUARY 14.

The time agreed upon by the last mentioned vote being expired, the States proceeded in manner aforesaid to the thirtieth ballot; and, upon examination thereof, the result was declared to be the same.

Ordered, That the ballot be repeated at one o'clock.

The time agreed upon by the last mentioned vote being expired, the States proceeded in manner

aforesaid to the thirty-first ballot; and, upon examination thereof, the result was declared to be the same.

Ordered, That the ballot be repeated at two o'clock.

The time agreed upon by the last mentioned vote being expired, the States proceeded in manner aforesaid to the thirty-second ballot; and, upon examination thereof, the result was declared to be the same.

Ordered, That the ballot be repeated at three o'clock.

The time agreed upon by the last mentioned vote being expired, the States proceeded in manner aforesaid to the thirty-third ballot; and, upon examination thereof, the result was declared to be the same.

Ordered, That the ballot be repeated on Monday next at twelve o'clock, and not before.

FEBRUARY 16.

The time agreed upon by the last mentioned vote being expired, the States proceeded in manner aforesaid to the thirty-fourth ballot; and upon examination thereof, the result was declared to be the same.

Ordered, That the ballot be repeated to-morrow at twelve o'clock, and not before.

FEBRUARY 17.

The time agreed upon by the last mentioned vote being expired, the States proceeded in manner aforesaid to the thirty-fifth ballot; and upon examination thereof, the result was declared to be the same.

Ordered, That the ballot be repeated at one o'clock.

The time agreed upon by the last mentioned vote being expired, the States proceeded in manner aforesaid to the thirty-sixth ballot; and, upon examination thereof, and the result being reported by the tellers to the SPEAKER, the SPEAKER declared to the House that the votes of ten States had been given for THOMAS JEFFERSON, of Virginia; the votes of four States for AARON BURR, of New York; and that the votes of two States had been given in blank; and that, consequently, THOMAS JEFFERSON, of Virginia, had been, agreeably to the Constitution, elected PRESIDENT of the UNITED STATES. for the term of four years, commencing on the fourth day of March next.*

* The following account of the balloting and incidents connected therewith in the House, is taken from the National Intelligencer, of February 13, 16, and 18, 1801.

[From the National Intelligencer, Feb. 13.]

"The votes having been entered on the Journals of the House of Representatives, the House returned to its own Chamber, and with closed doors proceeded to the ballot, as follows:

Whereupon the votes of the first ballot being counted, the following was the result:

Jefferson, 8 States; Burr, 6; divided, 2, viz: Maryland and Vermont. No election.

FEBRUARY, 1801.

Election of President.

H. OF R.

Ordered, That Mr. PINCKNEY, Mr. TAZEVELL, and Mr. BAYARD, be appointed a committee to wait on the PRESIDENT of the UNITED STATES, and notify him that THOMAS JEFFERSON is elected President of the United States, for the term commencing on the fourth day of March next.

On this ballot the individual votes were for					
			Jefferson.	Burr.	
New Hampshire	-	-	-	4	
Massachusetts	-	-	3	11	
Vermont	-	-	1	1	
Rhode Island	-	-	-	2	
Connecticut	-	-	-	7	
New York	-	-	6	4	
New Jersey	-	-	3	2	
Pennsylvania	-	-	9	4	
Delaware	-	-	-	1	
Maryland	-	-	4	4	
Virginia	-	-	16	3	
Kentucky	-	-	2	-	
North Carolina	-	-	9	1	
South Carolina *	-	-	-	5	
Georgia †	-	-	1	-	
Tennessee	-	-	1	-	
			55	49	

The individual votes on the succeeding ballots occasionally fluctuated without changing the general result.

The House proceeded immediately to the second ballot, the result of which was the same, as well as that of the succeeding ballots, including the 8th, which being declared about 4 P. M., the House determined to suspend taking the next ballot for one hour; on which the members separated.

The reader will observe that this postponement of the ballot was a virtual adjournment of the House, and that it was pursued in preference to adjournment, to avoid violating the rule previously adopted not to adjourn until a President should be elected.

About 5 P. M. the 9th ballot was entered upon, and the same result with the former produced.

After going through a number of other ballots, terminating in the same issue, it was agreed to take each ballot at the interval of an hour. In this manner the ballots were repeated until about 9 o'clock A. M., on Thursday—no separation of the members having taken place during the whole night.

The same invariable result followed each ballot, including the 27th, when, at 9 o'clock A. M., it was agreed to postpone the next ballot till 12 o'clock at noon; when the members separated.

At 12 o'clock the 28th ballot was taken—the result of which corresponded with the preceding ballots. After which further balloting was postponed till Friday at 11 o'clock.

On Thursday morning the Speaker stated that persons were in waiting to deliver messages from the President and the Senate, and he wished a decision of the House whether they could be received. On the suggestion of a member it was agreed, without formally putting the question, to receive the messages.

On Wednesday, Mr. Nicholson, who had been for several days very ill, appeared on the floor, and had a place assigned him in an anti-chamber adjacent to the room in which the House assembled, to which room, to enable him to vote, the ballot box was carried by

* Mr. Sumter sick.

† Mr. Jones dead.

Ordered, That a message be sent to the Senate to inform them that THOMAS JEFFERSON has been duly elected PRESIDENT of the UNITED STATES, for the term of four years, commencing on the fourth day of March next; and that the Clerk of this House do go with the said message.

the tellers of Maryland. He rapidly progresses in recovery. His vote for Mr. Jefferson was important as it divided Maryland, and would, with the accession to Mr. Jefferson of one Federal vote from that State, have made him President.

At 12 o'clock on Friday (this day) the 29th ballot was taken, which produced the same result.

At 1 o'clock the 30th ballot was taken, the result the same.

It was then determined that the next ballot should be taken to-morrow at 12 o'clock.

[From the National Intelligencer, of Feb. 16.]

On Saturday, the 14th instant, at 12 o'clock at noon, the House of Representatives went into the thirty-first balloting, the result of which was the same with the preceding ballots.

It was then determined that the next ballot should be at one o'clock.

On going into the thirty-second ballot, General Dickson, from North Carolina, declared, that it was high time to come to a final vote, and that he would henceforward vote for Mr. Jefferson.

The result of this ballot presented the same issue.

At two o'clock, the thirty-third ballot was taken; the result still the same.

It was then determined that the next ballot should be taken on Monday at 12 o'clock.

On Friday, during one of the intervals of balloting, the Speaker informed the House that he had received a letter from the Secretary of the Treasury, which he would, with the permission of the House, read.

A member expressed his opinion that to read the letter would be an infraction of the rule established by the House.

The Speaker declared that, in his opinion, the rule would not be violated, as the reading of the letter would be gone through before the hour assigned for the next ballot arrived.

It was replied that, though it had been agreed to postpone taking the next ballot for an hour, yet it was clearly understood that, in the interval, the Representatives of the several States were consulting on the votes to be given.

The reading of the letter was overruled.

After the thirtieth ballot, on Friday, a motion was made and seconded by individual members, to postpone the next ballot to the 3d of March; the motion was rejected by the unanimous votes of all the States.

The Speaker then informed the House that, unless otherwise instructed, he should in future not consider a question before the House, unless moved by one State, and seconded by another.

The decision of the Chair was, on all hands, acquiesced in.

On Monday, the 16th instant, the thirty-fourth ballot was taken, the result the same as before.

The next ballot was postponed till to-morrow at 12 o'clock.

All the accounts received from individuals at a distance, as well as the feelings of citizens on the spot,

H. OF R.

Election of President.

FEBRUARY, 1801.

The House resolved itself into a Committee of the Whole House on the bill making appropriations for the support of Government, for the year one thousand eight hundred and one; and after some time spent therein, the Committee rose, reported progress, and had leave to sit again.

concur in establishing the conviction that the present is among the most solemn eras which have existed in the annals of our country.

That confidence, which has hitherto reposed in tranquil security, on the wisdom and patriotism of Congress, stands appalled at dangers which threaten the peace of society, and the existence of the Constitution.

Placed in the midst of such circumstances, with the solitudes of millions centering on the deliberations of their Representatives, it becomes the sacred duty of the press to make that people, whose rights are involved, the depository of the earliest and most correct information.

For four days, the Republican and Federal parties have remained immovable in their original vote for President.

The Republicans possess eight States, with half the delegation of two other States.

The Federalists possess six States with half the delegation of two States.

The Federal party apparently, for some time, entertained hopes of gaining over some Republican votes. But they are now convinced that the hope is abortive. What will be the result?

The answer to this interesting question will be made with the utmost coolness and integrity. Though it will in a degree involve opinions as to future measures, yet it is confidently believed that these opinions are entitled to the most unlimited confidence.

1. The Representatives of the eight States that vote for Mr. Jefferson will remain immutable in their adherence to the public will.

2. It is said that the six States that vote for Mr. Burr will not yield.

But it is believed that they will yield. The unanimous and firm decision of the people throughout the United States in favor of Mr. Jefferson will be irresistible. In Maryland, there is scarcely a dissenting voice, and among the first who have avowed a preference for Mr. Jefferson, are Federalists of the largest wealth and most respectable talents.

3. Some of the Representatives of those States that vote for Mr. Burr have declared a determination, in case neither he nor Mr. Jefferson shall be elected, to make by law a President *pro tempore*.

The determination was avowed; but it is believed that it is not now seriously entertained. So hostile would the voice of America appear to be to this measure, that it is doubtful whether any man would propose it, and more doubtful whether any man would accept the station, if offered to him.

During that period of deep suspense which may be yet to come, it behoves the people of the United States to manifest that spirit of dignified and commanding fortitude, that, while it stands prepared for any crisis, is resolved not to commit the cause in which it is embarked, by any act of indiscretion. It is right that public opinion should express itself. Let it then be expressed with respectful firmness from one end of the Union to the other. Let the Representatives of the people know the will of the people, and they will obey it.

Resolved, That the Clerk of this House cause to be printed one thousand copies of the act passed this session, entitled "An act to provide for the more convenient organization of the Courts of the United States," for the use of the members of both Houses of Congress.

That the people may know how the votes of their Representatives have been given, we present a statement:

New Hampshire—4 for Burr, viz: Mr. Foster, Mr. Sheafe, Mr. Tenney, and Mr. Freeman.

Massachusetts—11 for Burr, viz: Mr. S. Lee, Mr. Otis, Mr. N. Read, Mr. Shepard, Mr. Thatcher, Mr. Wadsworth, Mr. L. Williams, Mr. Bartlett, Mr. Mattoon, Mr. J. Reed, Mr. Sedgwick.

Three for Jefferson, viz: Mr. Bishop, Mr. Varnum, Mr. Lincoln.

Rhode Island—2 for Burr, viz: Mr. Champlin, and Mr. J. Brown.

Connecticut—7 for Burr, viz: Mr. C. Goodrich, Mr. E. Goodrich, Mr. Griswold, Mr. Dana, Mr. J. Davenport, Mr. Edmond, Mr. J. C. Smith.

Vermont—1 for Jefferson, viz: Mr. Lyon.

One for Burr, viz: Mr. Morris.

New York—6 for Mr. Jefferson, viz: Mr. Bailey, Mr. Thompson, Mr. Livingston, Mr. Elmendorf, Mr. Van Cortlandt, Mr. J. Smith.

Four for Mr. Burr, viz: Mr. Bird, Mr. Glen, Mr. Cooper, Mr. Platt.

New Jersey—3 for Jefferson, viz: Mr. Kitchell, Mr. Condit, Mr. Lynn.

Two for Burr, viz: Mr. F. Davenport, Mr. Imlay.

Pennsylvania—9 for Mr. Jefferson, viz: Mr. Gallatin, Mr. Gregg, Mr. Hanna, Mr. Leib, Mr. Smilie, Mr. Muhlenberg, Mr. Heister, Mr. Stewart, Mr. R. Brown.

Four for Burr, viz: Mr. Wain, Mr. Kittera, Mr. Thomas, Mr. Woods.

Delaware—1 for Mr. Burr, viz: Mr. Bayard.

Maryland—4 for Mr. Jefferson, viz: Mr. S. Smith, Mr. Dent, Mr. Nicholson, Mr. Christie.

Four for Mr. Burr, viz: Mr. J. C. Thomas, Mr. Craik, Mr. Dennis, and Mr. Baer.

Virginia—14 invariably for Mr. Jefferson, viz: Mr. Nicholas, Mr. Clay, Mr. Cabell, Mr. Dawson, Mr. Eggleston, Mr. Goode, Mr. Gray, Mr. Holmes, Mr. Jackson, Mr. New, Mr. Randolph, Mr. A. Trigg, Mr. J. Trigg, Mr. Tazewell.

Five for Mr. Burr on same ballots, (two of whom on the first ballot voted for Mr. Jefferson,) viz: Mr. Evans, Mr. H. Lee, Mr. Page, Mr. Parker, Mr. Powell.

North Carolina—6 invariably for Mr. Jefferson, viz: Mr. Alston, Mr. Macon, Mr. Stanford, Mr. Stone, Mr. R. Williams, Mr. Spaight.

Four for Burr on some ballots, (3 of whom on the first ballot voted for Mr. Jefferson,) viz: Mr. Henderson, Mr. Hill, Mr. Dickson, Mr. Grove.

South Carolina—Mr. Sumter being sick has not attended, but will attend, at every hazard, the moment his vote can be of any avail. The individual votes of the Representatives of this State are not accurately known, but it is generally believed that Mr. Huger votes for Mr. Jefferson; and Mr. Rutledge, Mr. Pinckney, and Mr. Harper, vote for Mr. Burr. Mr. Nott's vote is doubtful. He has gone home.

Georgia—1 for Jefferson, viz: Mr. Taliaferro—Mr. Jones, who is dead, would have voted the same way.

Kentucky—2 for Mr. Jefferson, viz: Mr. Davis and Mr. Fowler

FEBRUARY, 1801.

Election of President.

H. OF R.

The SPEAKER laid before the House a letter from Winthrop Sargent, Governor of the Mississippi Territory, enclosing a petition from sundry inhabitants of the said Territory, praying that Congress will suspend the operation of so much of the act, entitled "An act supplemental to the act, entitled 'An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a Government in the Mississippi Territory,'" which establishes a second grade of territorial government in the said Territory; and that a law may be passed extending the same privileges to the said inhabitants as have been granted to the inhabitants of the Indiana Territory.

Ordered, That the said petition do lie on the table.

On motion it was

Resolved, That the President of the United States be requested to cause the proper officer to lay before this House a particular detail of the expenditure of the moneys appropriated by the acts of the fourth of May and sixth of July, one thousand seven hundred and ninety-eight, and of the tenth of May, one thousand eight hundred, for the purpose of purchasing cannon and arms, or fabricating the same, and the purchasing, leasing, and establishing, of foundries and armories; showing the quantity of cannon and arms purchased or manufactured; the foundries and armories established, and what lands have been purchased for the purpose of erecting foundries, together with their respective quantities and situations; also, a list of the warrants drawn on those appropriations, specifying in whose favor each warrant was drawn, and for what purpose.

Tennessee—1 for Mr. Jefferson, viz: Mr. Claiborne.

On Saturday last a memorial was presented to John Chew Thomas, representative in Congress for this District, from a respectable number of his constituents, recommending him to vote for Thomas Jefferson, and declaring that at least two-thirds of his constituents were in favor of the election of Mr. Jefferson.

The memorial was signed by the most respectable Federal gentlemen of the City of Washington.

[From the National Intelligencer, of Feb. 18.]

On Tuesday at 12 o'clock the 35th ballot was taken; the result the same with that of the preceding ballots.

At 1 o'clock the 36th ballot was taken which issued in the election of Thomas Jefferson.

On this ballot there were,

Ten States for Mr. Jefferson, viz: Vermont, New York, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, Georgia, Kentucky, and Tennessee.

Four States for Mr. Burr, viz: Rhode Island, New Hampshire, Connecticut, and Massachusetts.

Two States voted by blank ballots, viz: Delaware and South Carolina.

In the instance of Vermont, Mr. Morris withdrew.

In that of South Carolina, Mr. Huger, who is understood previously uniformly to have voted for Mr. Jefferson, also withdrew, from a spirit of accommodation, which enabled South Carolina, to give a blank vote.

And in the instance of Maryland, four votes were for Jefferson and four blank.

Mr. OTIS, from the committee appointed, presented a bill extending the privilege of franking to JOHN ADAMS, now President of the United States; which was twice read, and ordered to be engrossed, and read the third time to-morrow.

The SPEAKER laid before the House a letter from SAMUEL DEXTER, acting as Secretary of War, enclosing a report made in pursuance of a resolution of the House of the second instant; which was read, and ordered to lie on the table.

WEDNESDAY, February 18.

An engrossed bill for extending the privilege of franking to John Adams, now President of the United States, was read the third time and passed.

A petition of sundry inhabitants of the States of Delaware and Maryland was presented to the House and read, praying that more efficient measures may be adopted by Congress, for the recovery of slaves escaping from their masters, and taking refuge in any of the neighboring States.

Ordered, That the said petition be referred to the committee appointed, on the twenty-second ultimo, to inquire into the expediency of making further provision to prevent the concealing or harboring of slaves escaping from one State to another, and to and from the Territories of the United States.

Mr. SAMUEL SMITH, from the committee, presented a bill for erecting light-houses on New Point Comfort, and on Smith's Point, in the State of Virginia, and on Faulkner's Island, on Long Island Sound, in the State of Connecticut; which was read twice and committed to a Committee of the whole House to-morrow.

Mr. PARKER, from the committee appointed on so much of the President's Speech as respects seasonable and systematic arrangements, proportioned to our national resources, for a Navy adapted to defensive purposes, presented a bill providing for a Naval Peace Establishment, and other purposes; which was read twice and committed to a Committee of the whole House to-morrow.

Mr. PARKER, from the same committee, presented a bill respecting navy yards, and timber for naval purposes; which was read twice and committed to a Committee of the whole House to-morrow.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to establish the district of Bristol, and to annex the towns of Kittery and Berwick to the district of Portsmouth;" to which they desire the concurrence of this House. The said bill was read twice and referred to the Committee of Commerce and Manufactures.

Mr. THATCHER, from the committee appointed, on the twenty-sixth of November last, to inquire whether any, and what, amendments are necessary to be made in the acts establishing a post office and post roads within the United States, presented a bill further to alter and establish certain post roads; which was read twice and committed to a Committee of the whole House on Friday next.

H. OF R.

Samuel Harrison Smith.

FEBRUARY, 1801.

Ordered, That Mr. SAMUEL SMITH be appointed on the committee to whom was referred so much of the President's Speech as respects seasonable and systematic arrangements proportioned to our national resources, for a Navy adapted to defensive purposes, in the room of Mr. NOTT, who has obtained leave of absence.

The House went into a Committee of the Whole on the bill for the relief of Nathaniel Holmes; which was reported to the House without amendment, and ordered to be engrossed and read the third time to-morrow.

The House, then went into a Committee of the Whole on the bill to amend an act, entitled "An act to regulate the collection of duties on imports and tonnage;" and, after some time spent therein, the Committee rose, reported progress and had leave to sit again.

A message from the Senate informed the House that the Senate have resolved that a committee be appointed, to join such committee as may be appointed on the part of the House of Representatives, to consider whether any, and, if any, what, measures ought to be adopted for the further accommodation of the President of the United States, for the term commencing the fourth day of March next, to report by bill, bills, or otherwise; and that Mr. NICHOLAS, Mr. TRACY, and Mr. BALDWIN, be this committee.

The House proceeded to consider the said message of the Senate: Whereupon,

Resolved, That this House do concur in the same.

Ordered, That Mr. NICHOLAS, Mr. GALLATIN, Mr. VARNUM, Mr. KITCHELL, and Mr. MACON, be the committee on the part of this House, for the purpose expressed in the message of the Senate.

The House again resolved itself into a Committee of the Whole on the bill making appropriations for the support of Government, for the year one thousand eight hundred and one; and, after some time spent therein, the committee reported several amendments thereto; which were severally twice read, and agreed to by the House.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time to-morrow.

The House went into a Committee of the Whole on the bill making appropriations for the Military Establishment of the United States, for the year one thousand eight hundred and one; and, after some time spent therein, the Committee rose and reported several amendments thereto; which were severally twice read, and agreed to by the House.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time to-morrow.

The House then went into a Committee of the Whole on the bill to amend the act, entitled "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves within the United States," and to repeal the act, entitled "An act to enlarge the powers of the Surveyors, of the Revenue;" and, after some time spent therein, the Committee rose and reported the bill without amendment.

SAMUEL HARRISON SMITH.

Mr. DAVIS—Mr. Speaker, I have risen with an intention of bringing before the House a subject on which I think it is our duty to act; and as the subject, to a certain extent, relates to the Speaker, I shall endeavor to conduct myself towards him in such a manner as to injure his feelings as little as the nature of the case will admit, in doing justice to the rights of a citizen. But, while I profess a respect for you as the Speaker of this House, a fear of wounding your feelings shall not prevent me from doing what I conceive to be my duty as a public servant. I think it important and necessary, that the power of a Speaker of this House over a citizen of America should be precisely known and understood. That the Speaker should know how far he ought to go, and the citizen know where he ought to stop.

Believing, therefore, as I do, that the Speaker of this House, in a very recent instance, has exceeded his power, and in so doing has deprived a citizen of the United States of his Constitutional right, by denying him the liberty of hearing the debates of this House, upon questions of great national concern, I have determined to bring the subject before the House with a view of obtaining the opinions of others on it. But, as almost all questions that come before this House assume the shape of party, I do not expect this question to be exempt from party feelings and party prejudices; but this shall not deter me from trying it. If gentlemen are not ready or willing to abandon their party feelings by a fair examination of a citizen's right, it is their own fault. The subject I allude to is contained in the following resolution, to wit.

Resolved, That the Speaker of this House, in directing the Sergeant-at-Arms to order and expel from the gallery of this House Samuel Harrison Smith, a citizen of the United States, usurped a power not given him by the rules of this House, and deprived the said Samuel Harrison Smith of his Constitutional right, as a citizen of the United States.

THURSDAY, February 19.

An engrossed bill making appropriations for the support of Government, for the year one thousand eight hundred and one, was read the third time and passed.

An engrossed bill making appropriations for the Military Establishment of the United States, for the year one thousand eight hundred and one, was read the third time and passed.

An engrossed bill to amend the act, entitled "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves within the United States," and to repeal the act, entitled, "An act to enlarge the powers of the surveyors of the revenue," was read the third time and passed.

An engrossed bill for the relief of Nathaniel Holmes was read the third time and passed.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act for extending the privilege of franking to John Adams, now President of the United States," with

FEBRUARY, 1801.

Mississippi Territory—Sedition Act.

H. OF R.

an amendment; to which they desire the concurrence of this House.

The House proceeded to consider the said amendment to the last mentioned bill; Whereupon,

Resolved, That this House doth agree to the said amendment.

Ordered, That the committee appointed, on the seventeenth instant, to wait on the PRESIDENT OF THE UNITED STATES and notify him that THOMAS JEFFERSON is elected President of the United States, for the term commencing on the fourth day of March next, be instructed to notify the President elect thereof.

On motion it was

Resolved, That a committee be appointed to inquire into the expediency of altering the times of holding the Courts of the United States, and to report by bill, or otherwise.

Ordered, That Mr. SILAS LEE, Mr. HILL, and Mr. ELIZUR GOODRICH, be appointed a committee, pursuant to the said resolution.

The House went into a Committee of the Whole on the bill to amend the act, entitled "An act to regulate the collection of duties on imports and tonnage;" and, after some time spent therein, the Committee rose and reported two amendments thereto.

Ordered, That the further consideration of the bill and amendments be postponed until to-morrow.

MISSISSIPPI TERRITORY.

Mr. CHAUNCEY GOODRICH, from the committee appointed, on the twenty-second of December last, to inquire into the official conduct of Winthrop Sargent, Governor of the Mississippi Territory, made a report; which was read as follows:

The Committee to whom was referred the representation of the House of Representatives of the Mississippi Territory, report:

That the first object mentioned in this representation respects the failure of an election for a member of the House of Representatives for the county of Washington, in that Territory.

On account of the Governor's order not being received in season, the election was there held on the 15th and 16th days of August, whereas by law it was directed to have been held on the 15th day of July. In all other respects the election is represented to have been fair, and the member chosen, correct. The power of the Governor to issue a writ of election is doubted, and the interference of Congress solicited.

As the members of the House of Representatives of the Territory serve for two years, and unless special provision be made, the inhabitants of Washington county will have no member in the House of Representatives the first session of the General Assembly, it appears to your committee expedient to authorize the Governor to order an election to be held in that county, for the choice of a representative.

The second object of this representation respects the time of holding the first session of the General Assembly of the district.

By law the General Assembly is to meet annually on the first Monday of December, unless by law they appoint a different day. The Governor has power, on extraordinary occasions, to convene the General Assembly.

It was found impracticable to make the appointments of the Legislative Council seasonably for holding the first session of the General Assembly on the first Monday of December last; and it is represented that if an earlier time be not fixed than the first day of December next, as now established by law, the appointment of a delegate in Congress from the Territory cannot be made seasonably for the next Congress, and it is stated that the Governor will be indisposed to convene the General Assembly at an earlier day.

The powers of the Governor being competent to the object in view, in the opinion of the committee, it would be inexpedient for Congress to interfere on the grounds suggested, of a presumption that those powers will not be fairly and discreetly exercised in this instance.

The Committee therefore respectfully submit to the consideration of the House the following resolution:

Resolved, That the Governor of the Mississippi Territory, be authorized to cause an election to be held in the county of Washington in that Territory, for the choice of a representative in the first General Assembly of the Territory.

Ordered to be committed to a Committee of the whole House on Monday next.

Mr. CHAUNCEY GOODRICH, from the same committee, to whom was referred, on the twenty-second of December last, the representation of the Legislature of the Mississippi Territory, made a report; which was read, and ordered to be committed to a Committee of the whole House on Monday next.

SEDITION ACT.

Mr. PLATT, from the Committee of Revisal and Unfinished Business, presented, according to order, a bill to repeal part of the act, entitled "An act in addition to the act, entitled 'An act for the punishment of certain crimes against the United States,'" and to continue in force the residue of the same; which was read the first time.

A motion was then made and seconded, and the question thereupon being taken, to wit:

"Shall this bill be rejected?" it passed in the negative—yeas 50, nays 49.—The SPEAKER declaring himself with the nays.

YEAS—Willis Alston, Theodorus Bailey, Phanuel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William Charles Cole Claiborne, John Condit, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, Albert Gallatin, Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, Benjamin Huger, George Jackson, Aaron Kitchell, Michael Leib, Levi Lincoln, Matthew Lyon, James Lynn, Edward Livingston, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, Josiah Parker, John Randolph, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, John Stewart, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Littleton W. Tazewell, Philip Van Cortlandt, Joseph B. Varnum and Robert Williams.

NAYS—Theodore Sedgwick, (Speaker,) George Baer, Bailey Bartlett, John Bird, John Brown, Christopher G. Champlin, William Cooper, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Archi-

bald Henderson, William H. Hill, James H. Inlay, John Wilkes Kittera, Henry Lee, Silas Lee, Lewis R. Morris, Ebenezer Mattoon, Harrison G. Otis, Robert Page, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, Nathan Reed, John Rutledge, William Shepard, John C. Smith, James Sheafe, Samuel Tenney, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Wain, Lemuel Williams, and Henry Woods.

The said bill was read the second time, and committed to a Committee of the whole House on Saturday next.

STATE BALANCES.

Mr. HILL, from the committee appointed to inquire into the expediency of extinguishing the claims of the United States for certain balances which, by the Commissioners appointed to settle the accounts between the United States and the several States, were reported to be due from several of the States to the United States, made a report, accompanied by a bill, to extinguish the claims of the United States, for certain balances reported to be due from several of the States to the United States; which was read, and the consideration of the said report and bill postponed until the third day of March next.

The report is as follows:

The committee appointed to inquire into the expediency of extinguishing the claims of the United States for certain balances which, by the Commissioners appointed to settle the accounts between the United States and the several States, were reported to be due from several of the States to the United States, report—

That the Commissioners aforesaid, on the liquidation of the accounts, reported that there were due from several of the States certain balances, that is to say:

New York	- - -	\$2,074,846
Pennsylvania	- - -	76,709
Delaware	- - -	612,428
Maryland	- - -	151,430
Virginia	- - -	100,879
North Carolina	- - -	501,082

That Congress, by an act passed the 15th February, 1799, engaged that any State so reported against might discharge itself from the claim, by an engagement in the form of a Legislative act, to be passed before the first of April, 1800, to pay at the Treasury of the United States, within five years, the amount of the sum assumed by the United States in the debt of such State; or by expending moneys to the like amount within the time aforesaid in the erection of fortifications. And the said act of Congress provides further, that any payment or expenditure aforesaid shall be credited at the Treasury to the amount of stock which said payment or expenditure is equal to the purchase of at the market prices of stock. That the State of New York passed, within the time limited, the Legislative act required by the act of Congress aforesaid, and has already received credit at the Treasury for the sum of \$222,810 06, for having previously expended in fortifications the sum of \$136,533 82. That no other State has acceded to the terms offered by the said act of Congress.

The committee further report, that, by the immediate operation of the said act of Congress, and of the Legislature of the State of New York, that State was exonerated and released from a very considerable part of the balance reported, to wit, the sum of \$891,129 31; the

balance reported against the State being to that amount more than the sum subscribed on the assumption of the United States in the debt of that State, the sum so subscribed amounts to \$1,183,716 69; that the sum of \$891,129 31, exceeds the whole amount of the balance reported to be due from any one of the States, and the aggregate amount of the whole of the balances, with the exception of the balance reported to be due from the State of Delaware.

The committee, without entering into a discussion of the principles whereon the settlement of the accounts by the Commissioners was founded, remark, that as none of the States but the State of New York has manifested any disposition to pay the balances reported against them, whether the terms offered by the said act of Congress operate favorably or not, and none of them have assented to the justice or equity of the claim of the United States, and no means exist of exacting payment, it seems unwise to keep alive a claim which cannot be enforced, and may have the effect of producing irritation and exciting discontent; and as the act of Congress has already released the State of New York from so large an amount, and enabled that State, with ease and advantage, to discharge the residue of the balance reported to be due from that State, the committee are of opinion that a release of the balances due from the other States is expedient, and for this purpose report a bill, which is submitted.

FRIDAY, February 20.

A petition of sundry persons residing on lands belonging to the United States, and lying between the waters of the Muskingum and Scioto rivers, in the Northwestern Territory, was presented to the House and read, praying to be allowed a preemption right to the lands on which the petitioners are settled, on terms more favorable than those heretofore granted to them by law.

Ordered, That the said petition be referred to Mr. DENNIS, Mr. McMILLAN, and Mr. CHRISTIE, with instructions to examine the matter thereof, and report the same, with their opinion thereon, to the House.

Mr. MACON, from the Committee of Claims, to whom was referred, on the twenty-third of December last, the petition of Charles Tomkins, in behalf of Arnold Henry Dohrman and others, made a report; which was read and considered: Whereupon,

Resolved, That the President of the United States be authorized to issue a patent for the thirteenth township in the seventh range, to Arnold Henry Dohrman, or his legal representatives, agreeably to a resolution of Congress of the first day of October, in the year one thousand seven hundred and eighty-seven.

Ordered, That a bill or bills be brought in, pursuant to the said resolution; and that the Committee of Claims do prepare and bring in the same.

Resolved, That a committee be appointed to bring in a bill to revive and continue "An act declaring the consent of Congress to an act of the State of Maryland, passed the twenty-eighth of December, one thousand seven hundred and ninety-three, for the appointment of a health officer."

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Samuel Harrison Smith.

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Ordered, That the said motion be referred to the Committee of Revisal and Unfinished Business, and that they do prepare and bring in a bill or bills pursuant thereto.

Mr. PINCKNEY, from the committee appointed, on the seventeenth instant, to wait on the President of the United States, and inform him that Thomas Jefferson is elected President of the United States, for the term commencing on the fourth of March next, reported that the committee had performed that service.

The House resumed the consideration of the amendments reported yesterday, from the Committee of the whole House, to whom was committed the bill to amend the act, entitled "An act to regulate the collection of duties on imports and tonnage," and the same being read, were, on the question severally put thereupon, agreed to by the House.

The said bill was then further amended at the Clerk's table, and, together with the amendments, ordered to be engrossed, and read the third time to-morrow.

The House resolved itself into a Committee of the Whole, on the report of the Committee of Claims, made the twenty-sixth ultimo, on the several petitions of Alexander Roxburgh, Emory Sudler, and Elizabeth his wife, Benjamin Bird, Griffith Jones, David Jones, Philip Bush; and a bill which passed the Senate at the last session of Congress, for the relief of the representatives of Samuel Lapsley, deceased; and, after some time spent therein, the Committee rose and reported their disagreement to the same.

SAMUEL HARRISON SMITH.

A motion being made and seconded that the House do come to the following resolution, to wit:

Resolved, That the Speaker of this House, in directing the Sergeant-at-Arms to order and expel from the gallery of this House, Samuel Harrison Smith, a citizen of the United States, has assumed a power not given him by the rules of this House, and deprived the said Samuel Harrison of a right which can only be forfeited by disorderly behaviour.

Resolved, unanimously, That the Speaker be excused from deciding whether the said motion is in order or not.

Mr. DAVIS.—Mr. Speaker, my intention is to call for the resolution laid on the table by me the other day, which relates to the conduct of the Speaker towards Mr. Smith. But before I call up the resolution I will remark that I have not introduced it with a view to afford myself an opportunity of venting invectives or personalities against the Speaker. The due respect to this House forbids a conduct of that sort. The number of days the Speaker has seen, compared with my own, forbids it. I contend for principle; and those who differ from me on this point, in opinion, may meet me on this ground, and, by a fair and dispassionate argument, discuss the subject. If they choose to do so I shall be satisfied; it will be the most agreeable method to me. But if gentlemen are disposed to introduce asperity into the debate, I am ready to repel it.

The question was then taken, to wit: "Is this motion in order?"

And it passed in the negative—yeas 49, nays 54, as follows:

YEAS—Willis Alston, Theodorus Bailey, Phanuel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Gallatin, Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, George Jackson, Aaron Kitchell, Michael Leib, Matthew Lyon, Edward Livingston, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholas, John Randolph, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, Thomas Sumter, John Stewart, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Littleton W. Tazewell, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

NAYS—George Baer, Bailey Bartlett, James A. Bayard, John Bird, John Brown, Christopher G. Champlin, William Cooper, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glen, Samuel Goode, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Archibald Henderson, William H. Hill, Benjamin Huger, James H. Inlay, John Wilkes Kittera, Henry Lee, Silas Lee, Levi Lincoln, Ebenezer Mattoon, Lewis R. Morris, Harrison G. Otis, Robert Page, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, Nathan Reed, John Rutledge, jr., William Shepard, John C. Smith, James Sheafe, Samuel Tenney, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Wain, Lemuel Williams, and Henry Woods.

And so the said motion was decided not to be in order.

Mr. GALLATIN moved the following resolution, to wit:

Resolved, That the power of the Speaker, or Chairman of the Committee of the Whole, shall not be construed to extend (unless by consent of the House, previously obtained, or in case of disorderly behaviour) to the expulsion of any person, either from the lobby, when introduced by any member of the House, or from the gallery, when the same is generally opened.

The previous question was called for by five members, to wit: "Shall the main question to agree to the said motion be now put?"

Whereupon, the said question being under consideration, Mr. LIVINGSTON having addressed the Speaker, did, in the opinion of the Speaker, proceed to debate the main question, and being thereupon called to order by the Speaker, the said member did not immediately sit down, pursuant to the rule of the House, and was thereupon again called to order by the Speaker: Whereupon,

An appeal was made to the House from the decision of the Speaker,

And, on the question of concurring with the Speaker in his said station, it was resolved in the affirmative—yeas 60, nays 42, as follows:

YEAS—George Baer, Bailey Bartlett, James A. Bayard, John Bird, John Brown, Christopher G. Champ-

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The Mint.

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lin, William Cooper, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, George Dent, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glen, Samuel Goode, Chauncey Goodrich, Elizur Goodrich, Andrew Gregg, Roger Griswold, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Archibald Henderson, William H. Hill, Benjamin Huger, James H. Imlay, Aaron Kitchell, John Wilkes Kittera, Henry Lee, Silas Lee, Levi Lincoln, Ebenezer Mattoon, Lewis R. Morris, Harrison G. Otis, Robert Page, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, Nathan Reed, John Rutledge, William Shepard, John Smith, John C. Smith, James Sheafe, Samuel Tenney, George Thatcher, John Chew Thomas, Richard Thomas, Joseph B. Varnum, Peleg Wadsworth, Robert Wahn, Lemuel Williams, and Henry Woods.

NAYS—Willis Alston, Theodorus Bailey, Phanuel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William Charles Cole Claiborne, John Condit, Thomas T. Davis, John Dawson, Joseph Eggleston, Lucas Elmendorf, John Fowler, Edwin Gray, Joseph Heister, David Holmes, George Jackson, Michael Leib, Matthew Lyon, James Lynn, Edward Livingston, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, John Randolph, John Smilie, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, Thomas Sumter, John Stewart, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Littleton W. Tazewell, Philip Van Cortlandt, and Robert Williams.

The previous question upon the said motion being then taken, in the words following, to wit:

"Shall the main question to agree to the same, be now put?"

It passed in the negative—yeas 50, nays 53, as follows:

YEAS—Willis Alston, Theodorus Bailey, Phanuel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Gallatin, Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, George Jackson, Aaron Kitchell, Michael Leib, Levi Lincoln, Matthew Lyon, James Linn, Edward Livingston, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, John Randolph, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, Thomas Sumter, John Stewart, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Littleton W. Tazewell, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

NAYS—George Baer, Bailey Bartlett, James A. Bayard, John Bird, John Brown, Christopher G. Champlin, William Cooper, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glen, Samuel Goode, Chauncey Goodrich, Elizur Goodrich, R. Griswold, William Barry Grove, Robert Goodloe Harper, Archibald Henderson, William H. Hill, Benjamin Huger, James H. Imlay, John Wilkes Kittera, Henry Lee, Silas Lee, Ebenezer Mattoon, Lewis R. Morris, Harrison G. Otis, Robert Page, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, Nathan Reed, John Rutledge, William Shepard, John C. Smith, James Sheafe, Samuel Tenney, George Thatcher,

John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Wahn, Lemuel Williams, and Henry Woods.

And so the said motion was lost.

THE MINT.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and
Gentlemen of the House of Representatives:*

I transmit to Congress a report received this morning from Elias Boudinot, Esq., Director of the Mint, dated February the thirteenth, one thousand eight hundred and one, which will require the attention and decision of Congress, before the close of the session.

JOHN ADAMS.

UNITED STATES, Feb. 20, 1801.

MINT OF THE UNITED STATES,
February 13, 1801.

The Director considers it his duty to inform the President, that Monday last was the day, directed by law, on which the assays of the reserved pieces of coin should be made, in the presence of the Secretary of State, the Secretary of the Treasury, the Comptroller of the Treasury, the Chief Justice, and Attorney General; but none of those officers have attended, nor could indeed have been expected; and the Director has not been informed of any other provision, yet made by law, to accomplish the same purpose. By this means not only the check established by law on the coin of the United States is frustrated, but the reserved pieces are still locked up, and the depositors complain of being thus deprived of the use of their property. The design of bringing this subject before the President, is, that the Director may be instructed what steps to take on this occasion.

It is also necessary to inform the President, that, by the act of Congress of the 16th July, 1790, all offices attached to the seat of Government shall be removed to the district accepted for the seat of Government of the United States by the said act, by their respective holders, on the first Monday of December, 1800, and shall, after the said day, cease to be executed elsewhere; but, by an act of the last session of Congress, the Mint is to remain at Philadelphia till the fourth day of March next, anything in the said act to the contrary notwithstanding. This act expires on the fourth of March next, and unless some other provision is made by law before that day, it will be difficult to ascertain the duty of the Director, except to prevent any further operation of the Mint at Philadelphia. He wishes, therefore, for instructions from the President, as to his conduct with regard to the Mint, in case further provision, by law, should not be made; at all events, the public property here should be attended to.

All which is respectfully submitted to the President.
ELIAS BOUDINOT, *Director.*

The Message and report accompanying the same were read, and ordered to lie on the table.

SATURDAY, February 21.

An engrossed bill to amend the act, entitled "An act to regulate the collection of duties on imports and tonnage," was read the third time, and passed.

A petition of sundry inhabitants of the States

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Adjutant and Inspector General.

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of Delaware and Maryland was presented to the House and read, praying that more efficient measures may be adopted by Congress for the recovery of slaves escaping from their masters and taking refuge in any of the neighboring States.

Ordered, That the said petition be referred to the committee appointed, on the twenty-second ultimo, to inquire into the expediency of making further provision to prevent the concealing or harboring of slaves escaping from one State to another, and to and from the Territories of the United States.

Ordered, That the Message from the President of the United States respecting the Mint, presented yesterday, be referred to the Committee of Revisal and Unfinished Business.

Mr. PLATT, from the Committee of Revisal and Unfinished Business, to whom was this day referred the Message of the President of the United States made a report; which was read and considered: Whereupon,

Resolved, That it is expedient that the Mint remain in the city of Philadelphia until the fourth day of March, one thousand eight hundred and three, and that, during the continuance of the Mint at Philadelphia, it is expedient that the duties now enjoined on the Chief Justice of the United States, the Secretary and Comptroller of the Treasury, the Secretary for the Department of State, and the Attorney General of the United States, by the eighteenth section of the act, entitled "An act establishing a Mint, and regulating the coins of the United States," passed the second day of April, one thousand seven hundred and ninety-two, be performed by ———.

Ordered, That a bill or bills be brought in, pursuant to the said resolution: and that the Committee of Revisal and Unfinished Business do prepare and bring in the same.

Mr. PLATT, from the same committee, presented a bill concerning the Mint; which was read twice and committed to a Committee of the whole House on Monday next.

Mr. P., from the same committee, presented a bill declaring the consent of Congress to an act of the State of Maryland, passed the twenty-eighth of December, one thousand seven hundred and ninety-three, for the appointment of a health officer; which was read twice, and ordered to be engrossed, and read the third time on Monday next.

Ordered, That the committee to whom was referred the Message from the President of the United States, relative to the disposition of the public property in his possession, be discharged from the consideration thereof, and that the same be referred to the Joint Committee appointed, on the eighteenth instant, to inquire what further measures ought to be taken for the accommodation of the President of the United States.

The House resumed the consideration of the report of the Committee of the whole House, to whom was yesterday referred the report of the Committee of Claims on the several petitions of Alexander Roxburgh and others: Whereupon,

Resolved, That this House doth disagree with

the Committee of the whole House in their disagreement to the said report, and doth agree to the report of the Committee of Claims. And thereupon,

Resolved, That the several petitions of Alexander Roxburgh, Emory Sudler, junior, and wife, Benjamin Bird, Griffith Jones, David Jones, Philip Bush, Tobias Rudolph, Samuel Gibbs, and Benjamin Kendrick, ought not to be granted.

The House proceeded to consider the report of the Committee of Revisal and Unfinished Business, made the sixth instant, and which lay on the table, relative to an augmentation of the salaries of certain District Judges; Whereupon,

Ordered, That the said report be committed to a Committee of the whole House immediately.

The House, accordingly, resolved itself into the said committee; and, after some time spent therein, the Committee rose, reported progress, and had leave to sit again,

The House again resolved itself into a Committee of the Whole, on the bill sent from the Senate, entitled "An act concerning the District of Columbia; to which Committee of the Whole was also committed the bill for the government of the District of Columbia; and, after some time spent therein, the Committee rose and reported progress, and had leave to sit again.

Mr. BAYARD moved the following resolution, which was ordered to lie on the table:

Resolved, That a committee be appointed to prepare and bring in a bill to amend the Common Law, so as to define and limit the punishment upon prosecutions for libels; and to enable a defendant, upon such prosecution, to give the truth of the matter charged as a libel, in evidence, in his defence.

ADJUTANT AND INSPECTOR GENERAL.

A Message was received from the President of the United States, as follows:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

The enclosed report to me, made by the acting Secretary of War, on the fourteenth of this month, appears to be so well founded in all respects, that I recommend it to the consideration of Congress.

JOHN ADAMS.

UNITED STATES, Feb. 20, 1801.

DEPARTMENT OF WAR, Feb. 14, 1801.

SIR: Great inconveniences being experienced in the Army, from the want of a competent general staff, I conceive it to be my duty to submit the matter to your consideration. Though the Army is at present a small one, the duties of Adjutant and Inspector General must be performed; and, from the nature of our service, in small detachments, these duties become more laborious than in an Army acting in one compact body. At present an officer in the line of the Army resides at the seat of Government for these purposes, but there is no law allowing him any compensation for these extra services. As he is obliged to keep an office and be constantly employed himself, and also constantly to employ a clerk, it cannot be expected that he can continue to do the duties without compensation beyond his pay in the line. Perhaps a sufficient power rests in the Secretary of War to allow him an adequate sum for his extra labor and expenses. But, if this be

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President Elect—Sedition Act.

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true, it is a loose discretion, which, I conceive, ought to be directed by law. It is my opinion, that a law authorizing the appointing of a field officer in the line, to perform the duties, and giving him additional compensation for his services, and also giving him an assistant from among the subaltern officers, would promote regularity in the Department, discipline in the Army, and public economy.

I have the honor to be, with profound respect, sir, your obedient and faithful servant,

SAMUEL DEXTER.

The President of the United States.

The said Message, and report accompanying the same, were read, and ordered to be referred to Mr. RUTLEDGE, Mr. OTIS, and Mr. TENNEY.

PRESIDENT ELECT.

MR. PINCKNEY, from the committee instructed on the eighteenth instant to wait on the PRESIDENT elect, to notify him of his election, reported that the committee had performed that service, and addressed the PRESIDENT elect in the following words, to wit:

"The committee beg leave to express their wishes for the prosperity of your Administration; and their sincere desire that it may promote your own happiness and the welfare of our country."

To which the PRESIDENT elect was pleased to make the following reply:

"I receive, gentlemen, with profound thankfulness, this testimony of confidence from the great Representative Council of our nation: It fills up the measure of that grateful satisfaction which had already been derived from the suffrages of my fellow-citizens themselves, designating me as one of those to whom they were willing to commit this charge, the most important of all others to them. In deciding between the candidates, whom their equal vote presented to your choice, I am sensible that age has been respected rather than more active and useful qualifications.

"I know the difficulties of the station to which I am called, and feel, and acknowledge, my incompetence to them: But, whatsoever of understanding, whatsoever of diligence, whatsoever of justice, or of affectionate concern for the happiness of man, it has pleased Providence to place within the compass of my faculties, shall be called forth for the discharge of the duties confided to me, and for procuring to my fellow-citizens all the benefits which our Constitution has placed under the guardianship of the General Government.

"Guided by the wisdom and patriotism of those to whom it belongs to express the Legislative will of the nation, I will give to that will a faithful execution.

"I pray you, gentlemen, to convey to the honorable body from which you are deputed, the homage of my humble acknowledgments, and the sentiments of zeal and fidelity by which I shall endeavor to merit these proofs of confidence from the nation, and its representatives; and accept, yourselves, my particular thanks for the obliging terms in which you have been pleased to communicate their will.

"THOMAS JEFFERSON.

"FEBRUARY 20, 1801."

SEDITION ACT.

The House then went into a Committee of the Whole, on the bill to repeal part of an act, entitled "An act in addition to the act, entitled 'An

act for the punishment of certain crimes against the United States,' and to continue in force the residue of the same."

On the question that the said bill be engrossed for a third reading—

MR. DAWSON said, when the law which this bill is intended to continue was first passed, I gave to it my dissent; I did it from a conviction on my mind that it does violate that Constitution which I have sworn to support, and from a persuasion that the then state of things did not require it; that while it begat an unjust suspicion of the American character, it was a stain on our code of legislation.

If these were my impressions at that time, some reflection since, aided by the productions of men whose names and talents will be long remembered, and a knowledge of the sentiments of the State from which I come, and of the people whom I represent, have confirmed those impressions, and have resolved me to vote against that bill in every shape and in every stage, and I hope that it will not be suffered to be engrossed. Sir, it is well remembered by me, nor can it be forgotten by any gentleman, on what grounds this law was advocated and first passed; it was then supported and pressed upon us as a necessary link in a chain of measures which a majority of the two Houses of Congress thought proper to adopt to meet a particular crisis—to guard against the supposed intrigues of a foreign nation—to give respectability and energy to our Executive—to prevent its falling into disrepute with the people, and to punish factious individuals. The history of the last two years has, I am persuaded, convinced gentlemen how mistaken were their opinions of the American character. With me they must now believe that whatever difference there may be in our political principles, when the safety, freedom, or honor of our country are threatened by a foreign nation, like a band of brothers we will rally round our Government, and support it by means which the Constitution of our country authorizes, and which the energy of the case may require. How far this law has given respectability or energy to our Administration I will not pretend to say; the events of the present day is an ample comment on that point; but, after the experience which we have had, since some of the objects for which it was formed do not exist, and others have not been answered, I did hope that no attempt would have been made to continue it, and that it would have been suffered to expire like its twin-brother, the Alien law. In this hope, however, I have been disappointed; gentlemen have come forward and supported it with a zeal, not uncommon to them on other occasions, and unexpected in the present, when we were taught to believe that they were at least indifferent about it, and new reasons have been assigned for its continuance—formerly it was thought necessary to protect the Administration against the people; and now, sir, it is wanted to guard individuals against an Administration which may be weak or wicked. Experience has, I am persuaded, convinced gentlemen that it has not answered the first purpose, and I hope they

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will find it unnecessary for the latter. Into whatever hands the Administration of our country may fall, its acts ought to be examined with that freedom which becomes freemen, and with that decency which becomes gentlemen; so long as they are guided by justice and wisdom, they will be supported with decision and firmness by the friends to the Administration; whenever they shall descend from these great principles, the voice of the people will again sweep the actors from the political theatre.

This law, sir, has been advocated, because it is said to ameliorate the common law of England, and on this argument much dependence has been placed; however, admitting it to be true, on a moment's reflection it will not be found to merit any consideration; for, sir, let it be remembered that the opponents to this law are also the opponents to the adoption of that law as the law of the United States, and do not think it authorized by the Constitution; this is the doctrine which they have uniformly contended for, and which, pardon me if I say, has been established as fully as one point possibly can be; it is not therefore probable, nay, I think it impossible, that they ever should appeal to it to shield them. No, sir, supported by the justice and policy of their measures, I trust they will need the aid of neither the Alien, Sedition, nor Common law.

Sir, it will be unnecessary for me to touch on the unconstitutionality of this law; it has been proven over and over again in this House, and in every part of the continent, and if what has been said and written has not convinced gentlemen, no effect would be produced by anything which I could say. But, sir, as some of the objects for which the law was first enacted have passed by, and others have not been answered—as the friends to the approaching Administration do not wish it for their protection, and the opponents will not need it for theirs, I do hope that those gentlemen who doubt about the constitutionality will vote with us, and that the bill will not be permitted to be engrossed.

The question was then taken, and the engrossment refused, 49 to 53, as follows:

YEAS—George Baer, Bailey Bartlett, James A. Bayard, John Brown, Christopher G. Champlin, William Cooper, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Archibald Henderson, William H. Hill, James H. Imlay, John Wilkes Kittera, Henry Lee, Silas Lee, Ebenezer Mattoon, Lewis R. Morris, Harrison G. Otis, Robert Page, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, Nathan Read, John Rutledge, William Shepard, John C. Smith, James Sheafe, Samuel Tenney, Geo. Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

NAYS—Willis Alston, Theodorus Bailey, Phanuel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John

Condit, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Gallatin, Samuel Goode, Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, Benjamin Huger, George Jackson, Aaron Kitchell, Michael Leib, Levi Lincoln, Matthew Lyon, James Lynn, Edward Livingston, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, Josiah Parker, John Randolph, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, Thomas Sumter, John Stewart, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Littleton W. Tazewell, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

MONDAY, February 23.

An engrossed bill declaring the consent of Congress to an act of the State of Maryland, passed the twenty-eighth day of December, one thousand seven hundred and ninety-three, for the appointment of a health officer, was read the third time and passed.

A petition of Notley Young and others, of the City of Washington, was presented to the House and read, praying that the consent of Congress may be given to an act of the General Assembly of the State of Maryland, for erecting a bridge over the Eastern branch of the Potomac river.

Ordered, That the said petition be referred to Mr. JOHN CHEW THOMAS, Mr. CRAIK, and Mr. DENNIS.

Mr. S. SMITH, from the Committee of Commerce and Manufactures, to whom was referred, on the eighteenth instant, the bill sent from the Senate, entitled "An act to establish the district of Bristol, and to annex the towns of Kittery and Berwick to the district of Portsmouth," reported that, in the opinion of the committee, it would be proper for the House to agree to the said bill without amendment.

Ordered, That the said bill be now read the third time.

The said bill was accordingly read the third time and passed.

Mr. MACON, from the Committee of Claims, presented a bill for the relief of Arnold Henry Dohrman, or his legal representatives; which was read twice, and ordered to be engrossed, and read the third time to-morrow.

Mr. S. SMITH, from the Committee on Commerce and Manufactures, to whom was referred the petition of sundry merchants of the town of Providence, in the State of Rhode Island, made the following report:

That the petitioners deposited, under the care of the officers of the customs, in the manner prescribed by law, a quantity of teas imported by them from China. That, on the twenty-first of January last, the said goods were destroyed by fire, and the petitioners pray that they may not be compelled to pay the duties accruing on the same.

Your committee are of opinion, that, as the goods were under the care of the officers of the customs, at the time they were consumed by fire, and not subject to the control of the owners, and that, as granting relief

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in this case, cannot establish a precedent dangerous to the revenue, the prayer of the petition ought to be granted.

They, therefore, submit the following resolution, viz:

Resolved, That the Committee of Commerce and Manufactures be instructed to report a bill to exonerate the petitioners from the payment of duties on such goods as were deposited, under the care of the officers of the customs, at the time they were consumed by fire.

The House then went into a Committee of the Whole on the report of the Committee of Revision and Unfinished Business, relative to an augmentation of salaries of certain District Judges; and, after some time spent therein the Committee rose and reported a resolution thereupon; which was twice read, and agreed to by the House, as follows:

Resolved, That it is expedient to augment the salaries of the District Judges for the districts of Massachusetts, New York, Pennsylvania, and Maryland, respectively.

Ordered, That a bill or bills be brought in, pursuant to the said resolution; and that the Committee of Revision and Unfinished Business do prepare and bring in the same.

Mr. PLATT, from the last mentioned committee, presented a bill to augment the salaries of the District Judges of Massachusetts, New York, Pennsylvania, and Maryland, respectively; which was read twice and committed to a Committee of the whole House to-morrow.

On motion it was

Resolved, That the committee appointed to inquire what alterations ought to be made in the times of holding the Courts of the United States, be directed to inquire into the expediency of changing the place of holding a court from Baird's town to Frankfort; and report their opinion thereupon by bill, or otherwise.

The House went into a Committee of the Whole on the bill making appropriations for the Navy of the United States, for the year one thousand eight hundred and one; and, after some time spent therein, the Committee rose and reported several amendments thereto; which were severally twice read, and agreed to by the House.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time to-morrow.

Ordered, That the Committee of Ways and Means be authorized to report a bill to amend the act, entitled "An act to establish a General Stamp Office."

Mr. GRISWOLD, from the last mentioned committee, presented a bill to amend the act, entitled, "An act to establish a General Stamp Office;" which was read twice and committed to a Committee of the whole House to-morrow.

The House then went into a Committee of the Whole on the bill sent from the Senate, entitled, "An act concerning the District of Columbia," to which Committee of the whole House was also committed the bill for the government of the District of Columbia; and, after some time spent therein, the Committee rose and reported their agreement to the bill from the Senate, with several

amendments; which were severally twice read, and agreed to by the House.

Ordered, That the amendments be engrossed, and, together with the said bill, be read the third time to-morrow.

TUESDAY, February 24.

An engrossed bill making appropriations for the Navy of the United States, for the year one thousand eight hundred and one, was read the third time and passed.

An engrossed bill for the relief of Arnold Henry Dohrman, or his legal representative, was read the third time and passed.

The bill sent from the Senate, entitled "An act concerning the District of Columbia," together with the amendments agreed to yesterday, was read the third time; and, on the question that the same do pass, it was resolved in the affirmative—yeas 57, nays 36, as follows:

YEAS—Willis Alston, George Baer, Bailey Bartlett, James A. Bayard, John Bird, John Brown, Christopher G. Champlin, William Cooper, William Craik, John Davenport, Franklin Davenport, John Dennis, George Dent, Joseph Dickson, William Edmond, Abiel Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Archibald Henderson, David Holmes, Benjamin Huger, James H. Inlay, John Wilkes Kittera, Silas Lee, Levi Lincoln, Nathaniel Macon, Ebenezer Mattoon, Lewis R. Morris, Anthony New, John Nicholas, Harrison G. Otis, Robert Page, Josiah Parker, Jonas Platt, Leven Powell, John Reed, Nathan Reed, John Rutledge, William Shepard, Samuel Smith, John C. Smith, Richard Dobbs Spaight, David Stone, James Sheafe, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Wain, Robert Williams, Lemuel Williams, and Henry Woods.

NAYS—Theodorus Bailey, Phanuel Bishop, Robert Brown, Samuel J. Cabell, Matthew Clay, William C. C. Claiborne, John Condit, Thomas T. Davis, John Dawson, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Gallatin, Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, George Jackson, Aaron Kitchell, Michael Leib, Matthew Lyon, James Lynn, Edward Livingston, Peter Muhlenberg, Joseph H. Nicholson, John Randolph, John Smilie, John Smith, Richard Stanford, John Stewart, Benjamin Taliaferro, Abram Trigg, John Trigg, Littleton W. Tazewell, Philip Van Cortlandt, and Joseph B. Varnum.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, accompanying his report, made in pursuance of a resolution of this House on the second instant, relative to the destruction of official books and papers by the late fire in the building occupied by the Treasury Department; which was read and ordered to lie on the table.

The House went into a Committee of the Whole on the bill to amend an act, entitled "An act to retain a further sum on drawback for the expenses incident to the allowance and payment thereof, and in lieu of stamp duties on debentures;" and, after some time spent therein, the Committee reported progress, and had leave to sit again.

On motion, it was *Resolved*, That the President

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of the United States be requested to direct to be laid before this House an account of the depredations committed on the commerce of the United States by vessels of Great Britain, of which complaint has been made to the Government.

Ordered, That Mr. BAYARD and Mr. RUTLEDGE be appointed a committee to wait on the President of the United States with the foregoing resolution.

Mr. GRISWOLD, from the Committee of Ways and Means, presented a bill authorizing the Secretary of the Treasury to employ Clerks for completing the abstracts of the valuation of lands and dwelling-houses, and the enumeration of slaves; which was read twice and committed to a Committee of the whole House to-morrow.

On motion, it was *Resolved*, That a committee be appointed to inquire into the propriety of amending the act, entitled "An act to amend the act, entitled 'An act providing for the sale of the lands of the United States in the Territory Northwest of the Ohio and above the mouth of Kentucky river,'" so far as relates to the compensation of the Receivers of Public Moneys; and that they report by bill or otherwise.

Ordered, That Mr. GALLATIN, Mr. McMILLAN, and Mr. JOHN BROWN, be appointed a committee pursuant to the said resolution.

On motion, it was *Resolved*, That a committee be appointed to direct such an arrangement of the chamber of this House as will be best adapted to the preservation of order.

Ordered, That Mr. NICHOLAS, Mr. MATTOON, Mr. TALIAFERRO, Mr. FOSTER, Mr. MORRIS, Mr. JOHN C. SMITH, Mr. CLAIBORNE, Mr. FOWLER, Mr. HENDERSON, Mr. HARPER, Mr. BAER, Mr. WOODS, Mr. IMLAY, Mr. CHAMPLIN, Mr. COOPER, and Mr. BAYARD, be appointed a committee pursuant to the said resolution.

The House went into a Committee of the Whole on the bill further to alter and to establish certain post roads; and, after some time spent therein, the Committee rose and reported several amendments thereto; which were severally twice read, and agreed to by the House.

Ordered, That the said bill and amendments be engrossed, and read the third time to-morrow.

Mr. PINCKNEY, from the committee to whom was referred, on the thirty-first of December last, the memorial of Pleasant Henderson and others, inhabitants of the State of North Carolina, made a report; which was read and considered: Whereupon,

Resolved, That it is unnecessary for this House to adopt any further measures at this time on the subject of the memorial of Pleasant Henderson and others.

The House then resolved itself into a Committee of the whole House on the bill supplementary to an act, entitled "An act to divide the Territory of the United States Northwest of the Ohio into two separate governments;" and after some time spent therein, the Committee rose and reported the bill without amendment.

Ordered, That the said bill be engrossed, and read the third time to-morrow.

The House went into a Committee of the Whole on the report of the Committee of Commerce and Manufactures on the petition of sundry merchants of the town of Providence, in the State of Rhode Island, made the twenty-third instant; and, after some time spent therein, the Committee rose and reported a resolution, which was twice read and agreed to by the House, as follows:

Resolved, That the Committee of Commerce and Manufactures be instructed to report a bill to exonerate the petitioners from the payment of duties on such goods as were deposited under the care of the officers of the customs at the time they were consumed by fire.

WEDNESDAY, February 25.

An engrossed bill further to alter and to establish certain post roads was read the third time, and passed.

An engrossed bill supplementary to an act, entitled "An act to divide the Territory of the United States Northwest of the Ohio into two separate governments," was read the third time, and passed.

Mr. S. SMITH, from the Committee of Commerce and Manufactures, presented, according to order, a bill to amend the act altering the district of Bermuda Hundred and City Point; which was read twice and ordered to be engrossed, and read the third time to-morrow.

Mr. DENNIS, from the committee to whom was referred, on the twentieth instant, the petition of sundry inhabitants in the Northwestern Territory, made a report; which was read and considered: Whereupon,

Resolved, That the prayer of the said petition cannot be granted.

Ordered, That the committee appointed, yesterday, to inquire into the propriety of amending the act, entitled "An act to amend the act, entitled 'An act providing for the sale of the lands of the United States in the Territory Northwest of the Ohio, and above the mouth of Kentucky river,'" so far as relates to the compensation of the Receivers of Public Moneys, be also instructed to inquire into the propriety of amending the same law, so far as relates to the rule according to which discounts shall be calculated in case of prompt payment, and that they report by bill, or otherwise.

Mr. NICHOLSON, from the committee appointed, presented a bill to amend the act, entitled, "An act respecting fugitives from justice, and persons escaping from the service of their masters;" which was twice read, and committed to a Committee of the whole House to-morrow.

Mr. PLATT, from the Committee of Revision and Unfinished Business, made a further report, in part; which was read, and ordered to lie on the table.

Mr. BIRD, from the committee to whom was referred, on the third instant, the petition of Theodosius Fowler, made a report; which was read and considered: Whereupon,

Resolved, That the Secretary of the Treasury cause a revision of the accounts of Theodosius

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Fowler, under the contract of the twenty-eighth of October, one thousand seven hundred and ninety, to be made and stated, and that, in said account, where there is no certain and absolute proof, such presumptive proof as the case affords be introduced: and that a report of the same, together with the Secretary's opinion thereon, be exhibited to Congress at the next session; and that, in the mean time, the suit in the Circuit Court of the State of New York against said Fowler be stayed.

Ordered, That a bill or bills, or resolution, be brought in, pursuant to the said resolution; and that Messrs. BIRD, MORRIS, and H. LEE, do prepare and bring in the same.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to amend the act, entitled 'An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves within the United States,' and to repeal the act, entitled 'An act to enlarge the powers of the Surveyors of the Revenue,'" with an amendment; to which they desire the concurrence of this House. The Senate have also passed the bill, entitled "An act giving a right of pre-emption to certain persons who have contracted with John Cleves Symmes, or his associates, for lands lying between the Miami rivers, in the Territory of the United States Northwest of the Ohio," with several amendments; to which they desire the concurrence of this House.

The amendments proposed by the Senate to the last mentioned bill were read and ordered to lie on the table.

Mr. RUTLEDGE, from the committee to whom was referred, on the twenty-first instant, the Message from the President of the United States, enclosing a report from the acting Secretary of War, made a report; which was read, and is as follows:

"The committee to whom were referred the Message of the President of the United States, of the twentieth instant, with a report from the Secretary of War to the President, of the fourteenth instant, report the following resolutions:

Resolved, That provision be made by law for the appointment of an Inspector and Adjutant General of the Army of the United States, and for an assistant to the Adjutant General.

Resolved, That provision be made by law for the compensation of the persons who have done the duties of Inspector and Adjutant General, from the first of November, one thousand seven hundred and ninety-nine."

And, on the question that the House do agree to the said resolutions contained in the said report, it passed in the negative.

The House proceeded to consider the amendment proposed by the Senate to the bill, entitled "An act to amend the act, entitled 'An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves within the United States,' and to repeal the act, entitled 'An act to enlarge the powers of the Surveyors of the Revenue.'" Whereupon,

Resolved, That this House doth agree to the said amendment.

The House then resolved itself into a Committee of the Whole on the bill providing for a Naval Peace Establishment, and for other purposes; and, after some time spent therein, the Committee rose and reported several amendments thereto; which were read, but, an adjournment being called for, the House adjourned.

THURSDAY, February 26.

An engrossed bill to amend the act altering the district of Bermuda Hundred and City Point, was read the third time, and passed.

Mr. GALLATIN, from the committee appointed, presented a bill fixing the compensation of Receivers of Public Moneys for lands of the United States, and regulating the mode of calculating discounts in case of prompt payment for the said lands; which was twice read, and committed to a Committee of the whole House to-morrow.

Mr. BIRD, from the committee appointed, presented a resolution on the case of Theodosius Fowler; which was read, in the words following, to wit:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury cause a revision of the accounts of Theodosius Fowler, under the contract of the twenty-eighth of October, one thousand seven hundred and ninety, to be made and stated; and that, in said accounts, where there is no certain and absolute proof, such presumptive proof as the case affords be introduced; and that a report of the same, together with the Secretary's opinion thereon, be exhibited to Congress at the next session; and that, in the mean time, the suit in the Circuit Court of the State of New York against said Fowler, be stayed.

The question was taken thereupon, and resolved in the affirmative.

The House again resolved itself into a Committee of the Whole on the bill to amend the act, entitled "An act to retain a further sum on drawbacks for the expenses incident to the allowance and payment thereof, and in lieu of stamp duties on debentures; and, after some time spent therein, the Committee rose and reported several amendments thereto; which were severally twice read, and agreed to by the House.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time to-morrow.

Mr. S. SMITH, from the Committee of Commerce and Manufactures, presented a bill authorizing the remission of duties on certain teas destroyed by fire, while under the care of officers of the customs in Providence, Rhode Island; which was read twice and committed to a Committee of the whole House to-morrow.

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The House proceeded to consider the amendments reported, yesterday, from the Committee of the whole House to whom was committed the bill providing for a Naval Peace Establishment, and for other purposes: Whereupon,

The amendments reported from the Committee of the whole House were, on the question sever-

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ally put thereupon, agreed, and others disagreed to by the House.

A motion was then made and seconded to strike out the fourth section of the said bill, in the words following, to wit :

"*SEC. 4. And be it enacted*, That every captain, master commandant, and lieutenant, who shall be in service at the time when the reduction of the Navy shall take place as aforesaid, while remaining unemployed, shall have and receive, during his natural life and continuance in office, one-half his monthly pay, agreeably to the rank of his commission or warrant ; on condition, however, that he shall at all times hold himself in readiness to enter into actual service, and full pay on being so ordered ; and that he shall keep the Secretary of the Navy advised of his place of residence, and of the nearest post town thereto ; and shall not at any time absent himself from his place of residence for more than forty days, without first having obtained written permission from the Navy Department."

And, the question being taken thereupon, it passed in the negative—yeas 48, nays 49, as follows :

NAYS—Willis Alston, Theodorus Bailey, Phanuel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, Thos. T. Davis, John Dawson, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Gallatin, Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, Aaron Kitchell, Michael Leib, Levi Lincoln, Matthew Lyon, James Lynn, Edward Livingston, Nathaniel Macon, Ebenezer Mattoon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, Robert Page, John Randolph, John Smilie, John Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, John Stewart, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Littleton W. Tazewell, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

YEAS—George Baer, Bailey Bartlett, James A. Bayard, John Bird, John Brown, Christopher G. Champlin, William Cooper, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Archibald Henderson, William H. Hill, Benjamin Huger, James H. Inlay, John Wilkes Kittera, Silas Lee, Lewis R. Morris, Harrison G. Otis, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, Nathan Read, John Rutledge, William Shepard, John C. Smith, James Sheafe, Samuel Tenney, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

A motion was then made and seconded further to amend the said bill, by adding thereto the following section, to wit :

"*Be it further enacted*, That the President of the United States shall be, and he is hereby, authorized to discharge any part of the Marine Corps which may be unnecessary for the naval service :"

And the question being taken thereupon, it was resolved in the affirmative—yeas 53, nays 40, as follows :

YEAS—Willis Alston, Theodorus Bailey, Bailey Bartlett, Phanuel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Bird, John Brown, Christopher G. Champlin, William Cooper, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Archibald Henderson, William H. Hill, Benjamin Huger, James H. Inlay, John Wilkes Kittera, Silas Lee, Lewis R. Morris, Harrison G. Otis, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, Nathan Read, John Rutledge, William Shepard, John C. Smith, James Sheafe, Samuel Tenney, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

borne, John Condit, Thomas T. Davis, John Dawson, George Dent, Joseph Dickson, Joseph Eggleston, Lucas Elmendorf, Thomas Evans, John Fowler, Albert Gallatin, Andrew Gregg, John A. Hanna, Robert Goodloe Harper, Joseph Heister, Archibald Henderson, David Holmes, Aaron Kitchell, Michael Leib, Levi Lincoln, Matthew Lyon, James Linn, Edward Livingston, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, John Randolph, Nathan Reed, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, John Stewart, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Littleton W. Tazewell, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

NAYS—George Baer, James A. Bayard, John Bird, John Brown, Christopher G. Champlin, William Cooper, William Craik, John Davenport, Franklin Davenport, John Dennis, William Edmond, Abiel Foster, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, William Barry Grove, Benjamin Huger, James H. Inlay, John Wilkes Kittera, Henry Lee, Silas Lee, Lewis R. Morris, Harrison G. Otis, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, John Rutledge, William Shepard, John C. Smith, James Sheafe, Samuel Tenney, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

Ordered, That the said bill and amendments be recommitted to a Committee of the whole House immediately.

The House accordingly resolved itself into the said committee ; and, after some time spent therein, the Speaker resumed the Chair, and Mr. MORRIS reported that the committee had, according to order, had the said bill and amendments under consideration, and directed him to report to the House their disagreement to the fourth section.

The question was taken that the House do agree with the Committee of the whole House in their said agreement, and resolved in the affirmative.

The said bill was then further amended at the Clerk's table ; and, on the question that the same be engrossed for a third reading, it was resolved in the affirmative—yeas 70, nays 27, as follows :

YEAS—Willis Alston, George Baer, Theodorus Bailey, Bailey Bartlett, James A. Bayard, Phanuel Bishop, John Brown, Robert Brown, Gabriel Christie, Matthew Clay, John Condit, William Craik, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, Thomas Evans, John Fowler, Albert Gallatin, Andrew Gregg, Roger Griswold, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Joseph Heister, Archibald Henderson, William H. Hill, David Holmes, Aaron Kitchell, John Wilkes Kittera, Silas Lee, Michael Leib, Levi Lincoln, Matthew Lyon, James Linn, Edward Livingston, Nathaniel Macon, Ebenezer Mattoon, Lewis R. Morris, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, Leven Powell, John Randolph, John Reed, Nathan Read, William Shepard, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, John Stewart, Benjamin Taliaferro, Samuel Tenney, George Thatcher, John Chew Thomas, John Thompson, Abram Trigg, John Trigg, Littleton W. Tazewell, Philip Van Cortlandt, Joseph B. Varnum, Robert Waln, Robert Williams, and Lemuel Williams.

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NAYS—John Bird, Samuel J. Cabell, Christopher G. Champlin, William Charles Cole Claiborne, William Cooper, Samuel W. Dana, John Davenport, Franklin Davenport, Joseph Dickson, William Edmond, Abiel Foster, Henry Glen, Chauncey Goodrich, Elizer Goodrich, Benjamin Huger, James H. Inlay, Henry Lee, Harrison G. Otis, Josiah Parker, Thomas Pinckney, Jonas Platt, John Rutledge, James Sheafe, Richard Thomas, Peleg Wadsworth, and Henry Woods.

Ordered, That the said bill and amendments be engrossed, and read the third time to-morrow.

The House resolved itself into a Committee of the Whole on the bill to amend and continue in force the act, entitled "An act to establish a uniform system of bankruptcy throughout the United States;" and, after some time spent therein, the Committee rose and reported two amendments thereto; which were read.

Ordered, That the said bill and amendments be postponed until to-morrow.

FRIDAY, February 27.

An engrossed bill to amend the act, entitled "An act to retain a further sum on drawbacks, for the expenses incident to the allowance and payment thereof, and in lieu of stamp duties on debentures," was read the third time, and passed.

A memorial of Thomas Claxton, James Mathers, and Thomas Dunn, Doorkeepers to Congress, was presented to the House and read, praying that they may be permitted to retain the possession of three small tenements, the property of the public, on such terms as may be thought reasonable.

Ordered, That the said memorial be referred to Mr. GREGG, Mr. FREEMAN, and Mr. GLEN; that they do report thereon by bill or otherwise.

A Message was received from the President of the United States transmitting a report of the Secretary of State, with sundry documents, relative to the subject of the resolution of the House of Representatives of the twenty-fourth instant. Laid on the table.

Mr. GRISWOLD, from the committee appointed to inquire into the expenditure of money made by the Commissioners of the City of Washington; the disposition of public property made by them; and, generally, into all the transactions of the Commissioners which relate to the execution of the trust confided to them by the President of the United States, made a report; which was read and considered: Whereupon,

Resolved, That a committee be appointed to prepare and report a bill to abolish the Board of Commissioners of the City of Washington, and to direct that the business of that Board be transferred to the Department of the Treasury.

Resolved, That a committee be appointed to prepare and report a bill directing the Secretary of the Treasury, under the direction of the President of the United States, to prepare a plan of the city of Washington, delineating the streets, squares, and public grounds therein; and to report the same to Congress in December next.

Resolved, That a committee be appointed to prepare and report a bill to authorize the sale of

lands in the District of Columbia, under proper regulations, to raise the moneys which may at any time be due and unpaid on contracts for the sale of such lands.

Ordered, That a bill or bills be brought in pursuant to the said resolutions; and that Mr. GRISWOLD, Mr. SHEAFE, Mr. HENDERSON, Mr. CRAIK, and Mr. TENNEY, do prepare and bring in the same.

A Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

Gentlemen of the House of Representatives .

I transmit to you, in conformity with your request of the seventeenth instant, two reports; one from the acting Secretary of War, the other from the Secretary of the Treasury, of the twenty-sixth, with details of the expenditure of the moneys appropriated by the acts of the twentieth May, and sixth of July, one thousand seven hundred and ninety-eight, and of the tenth of May, one thousand eight hundred,

JOHN ADAMS.

UNITED STATES, Feb. 27, 1801.

The Message and papers accompanying the same were read, and ordered to lie on the table.

Mr. DENNIS, from the committee appointed on so much of the President's Speech as respects the District of Columbia, presented a bill supplementary to the act, entitled "An act concerning the District of Columbia;" which was read twice, and committed to a Committee of the whole House to-morrow.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act to add to the district of Massac, on the Ohio, and to discontinue the districts of Louisville, in the State of Kentucky, and Palmyra, in the State of Tennessee, and therein to amend the act, entitled 'An act to regulate the collection of duties on imports and tonnage,' with several amendments; to which they desire the concurrence of this House.

The House proceeded to consider the said amendments; whereupon,

Resolved, That this House doth agree to the said amendments.

Mr. SILAS LEE, from the committee appointed, presented a bill for altering the times of holding the Circuit Courts of the United States in the first circuit; for altering the times of holding the District Courts of said States in the State of North Carolina; and for altering the place of holding the Circuit Court of the said States in the district of Kentucky; which was read twice, and committed to a Committee of the whole House this day.

Mr. PINCKNEY, from the committee appointed, presented a bill to ascertain the titles of certain persons claiming lands within the territory of the United States; which was read twice, and committed to a Committee of the whole House to-morrow.

Mr. NICHOLAS, from the joint committee appointed to consider what further measures ought to be taken for the accommodation of the President of the United States, and to whom was referred the Message from the President of the Uni-

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ted States, concerning the disposition of the property of the United States in his possession, made a report; which was read, and ordered to be committed to a Committee of the whole House tomorrow.

Mr. NICHOLAS, from the same committee, presented a bill in addition to the act, entitled "An act making provision for the further accommodation of the household of the President of the United States;" which was read twice, and committed to the last-mentioned committee.

UNIFORM SYSTEM OF BANKRUPTCY.

The House proceeded to consider the amendments reported yesterday, from the Committee of the whole House, to the bill to amend and continue in force the act, entitled "An act to establish a uniform system of bankruptcy throughout the United States;" whereupon the amendments reported from the Committee of the whole House were, on the question severally put thereon, agreed to by the House.

The said bill was then further amended at the Clerk's table; and, on the question that the same be engrossed and read the third time, it was resolved in the affirmative—yeas 49, nays 42, as follows:

YEAS—George Baer, Bailey Bartlett, James A. Bayard, John Bird, John Brown, Christopher G. Champlin, William Cooper, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, George Dent, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, Robert Goodloe Harper, Archibald Henderson, William H. Hill, Benjamin Huger, James H. Imlay, John Wilkes Kittera, Silas Lee, Edward Livingston, Lewis R. Morris, Harrison G. Otis, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, Nathan Read, William Shepard, Samuel Smith, John C. Smith, James Sheafe, Samuel Tenney, George Thatcher, John Chew Thomas, Peleg Wadsworth, Robert Wain, Lemuel Williams, and Henry Woods.

NAYS—Willis Alston, Theodorus Bailey, Phanuel Bishop, Rob't Brown, Samuel J. Cabell, Matthew Clay, William Charles Cole Claiborne, John Condit, John Dawson, Joseph Eggleston, John Fowler, Albert Gallatin, Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, George Jackson, Aaron Kitchell, Michael Leib, Levi Lincoln, Matthew Lyon, James Lynn, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson John Randolph, John Smilie, John Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, Thomas Sumter, John Stewart, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Littleton W. Tazewell, and Joseph B. Varnum.

Ordered, That the said bill, with the amendments, be engrossed and read the third time tomorrow.

NAVAL PEACE ESTABLISHMENT.

An engrossed bill providing for a Naval Peace Establishment, and for other purposes, was read the third time; and, on the question that the same do pass, it was resolved in the affirmative—yeas 69, nays 18, as follows:

YEAS—Willis Alston, Theodorus Bailey, Bailey Bartlett, Jas. A. Bayard, Phanuel Bishop, John Brown, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, Thomas T. Davis, John Dawson, John Dennis, George Dent, Joseph Eggleston, Thomas Evans, Jonathan Freeman, Albert Gallatin, Andrew Gregg, Roger Griswold, William Barry Grove, John A. Hanna, Joseph Heister, William H. Hill, David Holmes, George Jackson, Aaron Kitchell, John Wilkes Kittera, Silas Lee, Michael Leib, Levi Lincoln, Matthew Lyon, James Lynn, Edward Livingston, Nathaniel Macon, Ebenezer Mattoon, Lewis R. Morris, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, Robert Page, Leven Powell, John Randolph, John Reed, Nathan Read, Wm. Shepard, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, Thomas Sumter, John Stewart, Benjamin Taliaferro, Samuel Tenney, George Thatcher, John C. Thomas, John Thompson, Abram Trigg, John Trigg, Littleton W. Tazewell, Joseph B. Varnum, Robert Wain, Robert Williams, and Lemuel Williams.

NAYS—Christopher G. Champlin, William Cooper, Franklin Davenport, Joseph Dickson, William Edmond, Abiel Foster, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Benjamin Huger, James H. Imlay, Harrison G. Otis, Josiah Parker, Jonas Platt, John C. Smith, James Sheafe, Peleg Wadsworth, and Henry Woods.

SATURDAY, February 28.

An engrossed bill to augment the salaries of the district Judges in the districts of Massachusetts, New York, Delaware, and Maryland, respectively, was read the third time, and passed.

Mr. GREGG, from the committee to whom was this day referred the memorial of Thomas Claxton and others, made a report; which he delivered in at the Clerk's table, where the same was twice read and considered; whereupon,

Resolved, That Thomas Claxton, James Mathers, and Thomas Dunn, be permitted to occupy, free of rent, until otherwise directed by Congress, the houses now in their respective possession, the property of the United States, in the public square in the city of Washington, on which the Capitol stands; together with a small piece of ground contiguous to each, for a garden, to be enclosed in such manner as not to interfere with any of the public streets or avenues running through the said square.

Ordered, That the Clerk of this House do carry the said resolution to the Senate, and desire their concurrence.

Mr. GRISWOLD, from the committee appointed, presented a bill further to amend the act, entitled "An act for establishing the temporary and permanent seat of the Government of the United States;" which was read twice, and committed to a Committee of the whole House on Monday next.

The House resolved itself into a Committee of the Whole on the bill concerning the Mint; and, after some time spent therein, the Committee rose and reported one amendment thereto; which was twice read, and agreed to by the House.

Ordered, That the said bill, with the amend-

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ment, be engrossed, and read the third time to-day.

The House resolved itself into a Committee of the Whole on the bill fixing the compensation of receivers of public moneys for lands of the United States, and regulating the mode of calculating discounts in case of prompt payment for the said lands; and, after some time spent therein, the Committee rose, and reported the bill without amendment.

Ordered, That the said bill be engrossed, and read the third time to-day.

The House resolved itself into a Committee of the Whole on the bill for altering the times of holding the Circuit Courts of the United States in the first circuit; for altering the times of holding the District Courts of the said States in the State of North Carolina, and for altering the place of holding the Circuit Court of the said States in the district of Kentucky; and, after some time spent therein, the Committee rose and reported the bill without amendment.

The said bill was then amended at the Clerk's table, and, together with the amendments, ordered to be engrossed, and read the third time to-day.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, accompanying his report on the petition of James Scott, referred to him on the twenty-seventh of January last; which was read, and ordered to lie on the table.

Ordered, That the Committee of the whole House, to whom was committed, on the twenty-sixth instant, the bill authorizing the remission of duties on certain teas destroyed by fire, while under the care of the officers of the customs in Providence, Rhode Island, be discharged from the further consideration thereof, and that the said bill be engrossed, and read the third time to-day.

The House resolved itself into a Committee of the Whole on the bill authorizing the discharge of Lawrence Erb from his confinement; and, after some time spent therein, the Committee rose and reported the bill without amendment.

Ordered, That the said bill be engrossed, and read the third time to-day.

The House resolved itself into a Committee of the Whole on the bill supplementary to the act, entitled "An act concerning the District of Columbia;" and, after some time spent therein, the Committee rose and reported.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time on Monday next.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act supplementary to an act, entitled 'An act to divide the Territory of the United States Northwest of the Ohio into two separate governments,' with several amendments; to which they desire the concurrence of this House.

The House proceeded to consider the said amendments: Whereupon,

Resolved, That this House doth agree to the same.

Ordered, That the Committee of the whole

House, to whom was committed, on the twenty-third instant, the bill to amend the act, entitled "An act to establish a General Stamp Office," be discharged from the further consideration thereof, and that the said bill be engrossed, and read the third time to-day.

Ordered, That the Committee of the whole House, to whom was committed, on the twenty-fourth instant, the bill authorizing the Secretary of the Treasury to employ clerks for completing the abstracts of the valuation of lands and dwelling-houses, and the enumeration of slaves, be discharged from the further consideration thereof, and that the said bill be engrossed, and read the third time to-day.

Mr. NICHOLAS, from the committee appointed, on the tenth instant, to inquire into the causes of the late fires in the War and Treasury Departments, made a report; which was read, and ordered to lie on the table.

An engrossed bill authorizing the discharge of Lawrence Erb from his confinement, was read the third time.

The House resolved itself into a Committee of the Whole on the bill to amend the act, entitled "An act respecting fugitives from justice, and persons escaping from the service of their masters;" and the Committee rose, reported progress, and had leave to sit again.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act directing the mode of estimating certain foreign coins and currencies, and of making out invoices in certain cases," with amendments; to which they desire the concurrence of this House. The Senate have passed the bill, entitled "An act making appropriations for the support of Government, for the year one thousand eight hundred and one," with amendments; to which they desire the concurrence of this House.

Ordered, That the amendments proposed by the Senate to the bill, entitled "An act making appropriations for the support of Government for the year one thousand eight hundred and one," be committed to a Committee of the whole House on Monday next.

An engrossed bill to amend the act, entitled "An act to establish a General Stamp Office," was read the third time, and passed.

An engrossed bill concerning the Mint was read the third time, and passed.

An engrossed bill authorizing the Secretary of the Treasury to employ clerks for completing the abstracts of the valuation of lands and dwelling-houses, and the enumeration of slaves, was read the third time and passed.

An engrossed bill authorizing the remission of duties on certain teas destroyed by fire, while under the care of the officers of the customs in Providence, Rhode Island, was read the third time, and passed.

An engrossed bill for altering the times of holding the Circuit Courts of the United States in the first circuit; for altering the times for holding the District Courts of the said States in the State of North Carolina; and for altering the place of

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System of Bankruptcy—Remonstrance of Georgia.

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holding the Circuit Court of the said States in the district of Kentucky, was read the third time, and passed.

An engrossed bill fixing the compensation of receivers of public moneys for lands of the United States, and regulating the mode of calculating discounts in case of prompt payment for the said land, was read the third time, and passed.

UNIFORM SYSTEM OF BANKRUPTCY.

An engrossed bill to amend and continue in force the act, entitled "An act to establish a uniform system of bankruptcy throughout the United States," was read the third time.

A motion was then made and seconded that the fourth section of the said bill be recommitted to a Committee of the whole House; and, the question being taken thereupon, it was resolved in the affirmative—yeas 50, nays 42, as follows:

YEAS—Willis Alston, George Baer, Theodorus Bailey, Phaniel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, John Fowler, Albert Gallatin, Edwin Gray, Andrew Gregg, William Barry Grove, John A. Hanna, Joseph Heister, William H. Hill, David Holmes, George Jackson, Aaron Kitchell, Michael Leib, Levi Lincoln, Matthew Lyon, Edward Livingston, James Lynn, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, Robert Page, John Randolph, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, Benjamin Tahaferro, John Thompson, Abram Trigg, John Trigg, Littleton W. Tazewell, Joseph B. Varnum, and Robert Williams.

NAYS—Bailey Bartlett, James A. Bayard, John Bird, John Brown, Christopher G. Champlin, William Cooper, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Benjamin Huger, James H. Inlay, John Wilkes Kittera, Silas Lee, Lewis R. Morris, Harrison G. Otis, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, Nathan Read, William Shepard, John C. Smith, James Sheafe, Samuel Tenney, George Thatcher, John Chew Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

Ordered, That the fourth section of the said bill be recommitted to a Committee of the whole House immediately.

The House accordingly resolved itself into said Committee; and, after some time spent therein, the SPEAKER resumed the Chair, and Mr. MORRIS reported that the Committee had had the fourth section of the said bill under consideration, and directed him to report to the House their disagreement to the same.

And, on the question that the House do agree with the Committee of the whole House in their said disagreement, it was resolved in the affirmative.

Resolved, That the said bill do pass, and that the title be "An act to amend the act, entitled 'An act to establish a uniform system of bankruptcy throughout the United States.'"

REMONSTRANCE OF GEORGIA.

Mr. DANA, from the committee to whom was referred, on the seventh ultimo, the memorial and remonstrance of the Legislature of the State of Georgia, made a report; which was read, and ordered to be committed to a Committee of the whole House on Monday next.

The report is as follows:

The Committee to whom was referred the Address and Remonstrance of the Legislature of the State of Georgia, submit the following Report:

The remonstrance complains of two acts of Congress respecting the Mississippi Territory; one passed in April, one thousand seven hundred and ninety eight, the other in May, one thousand eight hundred; and prays for their repeal.

The tract of country called the Mississippi Territory, is bounded on the West by the river Mississippi, on the East by the river Appalachicola, or Chatahoochee, on the South by the southern boundary of the United States, and on the North by a line drawn from the confluence of the river Yazoo with the Mississippi, due East to the before mentioned river Chatahoochee.

For a view of the claim of the United States to the territory in question, the committee, in the present instance, deem it sufficient to refer to a report of the Attorney General, made to the Senate, at the first session of the fourth Congress, and to the report of a committee of the House of Representatives, made at the first session of the sixth Congress. The last mentioned report also contains a summary statement of a variety of individual claims to land within the territory.

The claim of Georgia is particularly stated in the remonstrance referred to your committee.

The two acts of Congress, of which the remonstrance complains, have provided for an adjustment of those claims, through the agency of Commissioners; and also for the establishment of a government over the Mississippi Territory, similar to that established by the ordinance of Congress, of July one thousand seven hundred and eighty seven, for the Territory Northwest of the river Ohio; saving and reserving to the State of Georgia all her right or claim to the said territory.

Commissioners have accordingly been appointed on the part of the United States, and also on the part of Georgia, for negotiating an adjustment of their respective claims. No report has yet been laid before Congress from the Commissioners of the United States; but the business of their commission is understood to be yet pending.

Considering this state of things, the committee deem it proper for them to abstain from any particular discussion of the several claims to the Mississippi Territory, while a hope is cherished that an amicable adjustment may be ultimately effected. Nor do they think it expedient to adopt any measure which may be prejudicial to an object so desirable.

The committee therefore submit the following resolution:

"Resolved, That it would not be proper at this time for the House to take any further order on the Address and Remonstrance of the Legislature of the State of Georgia.

MONDAY, March 2.

An engrossed bill supplementary to the act, entitled "An act concerning the District of Columbia," was read the third time, and passed.

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President's House.

MARCH, 1801.

The SPEAKER laid before the House a letter from the PRESIDENT OF THE UNITED STATES elect, which was read, and is as follows:

WASHINGTON, *March 2, 1801.*

SIR: I beg leave through you to inform the Honorable the House of Representatives of the United States, that I shall take the oath which the Constitution prescribes to the President of the United States before he enters on the execution of his office, on Wednesday, the fourth instant, at twelve o'clock, in the Senate Chamber.

I have the honor to be, with the greatest respect, sir, your most obedient, and most humble servant,

THOMAS JEFFERSON.

HON. THEODORE SEDGWICK,
Speaker of the House of Representatives.

Ordered, That said letter do lie on the table.

The SPEAKER laid before the House a letter from the Governor of Maryland, which was read, and is as follows:

IN COUNCIL, ANNAPOLIS,

February 26, 1801.

SIR: We have the honor to forward to you, for the use of the honorable body over which you preside, a set of the laws of this State, pursuant to a resolution of the Legislature.

We have the honor to be, with great respect, your obedient servants,

BEN. OGLE.

THE HON. THEODORE SEDGWICK,
Speaker of the House of Representatives.

Ordered, That the said letter do lie on the table.

The House resolved itself into a Committee of the whole House on the amendments proposed by the Senate to the bill, entitled "An act making appropriations for the support of Government, for the year one thousand eight hundred and one;" and, after some time spent therein, the Committee rose, and reported their agreement to the same, with several amendments.

And, on the question that the House do agree with the Committee of the Whole in their agreement to the said amendments, with amendments, it was resolved in the affirmative.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act giving a right of pre-emption to certain persons who have contracted with John Cleves Symmes, or his associates, for lands lying between the Miami rivers, in the Territory of the United States Northwest of the Ohio:" Whereupon,

Resolved, That this House doth agree to the said amendments.

The House resolved itself into a Committee of the Whole, on the bill further to amend the act, entitled "An act for establishing the temporary and permanent seat of the Government of the United States;" and, after some time spent therein, the Committee rose and reported two amendments thereto; which were severally twice read, and agreed to by the House.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time to-morrow.

The House resolved itself into a Committee of the Whole, on the bill for erecting light-houses on New Point Comfort, and on Smith's Point, in the State of Virginia, and on Faulkner's Island, in Long Island Sound, in the State of Connecticut; and, after some time spent therein, the Committee rose and reported several amendments thereto; which were severally twice read, and agreed to by the House.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time to-morrow.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act making appropriations for the Navy of the United States for the year one thousand eight hundred and one." The Senate have passed the bill, entitled "An act further to alter and to establish certain post roads," with amendments; to which they desire the concurrence of this House. The Senate have passed the bill, entitled "An act to amend the act altering the district of Bermuda Hundred and City Point," with amendments; to which they desire the concurrence of this House.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act directing the mode of estimating certain foreign coins and currencies, and of making out invoices in certain cases:" Whereupon,

Resolved, That this House doth agree to the said amendments.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act to amend the act altering the district of Bermuda Hundred and City Point:" Whereupon,

Resolved, That this House doth agree to the said amendments.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act further to alter and to establish certain post roads:" Whereupon,

Resolved, That this House doth agree to the said amendments.

MR. MACON, from the Committee of Claims, to whom was referred the several petitions of Jacob Barnitz, Philip Sloan, Thomas Parker, Peter Charles L'Enfant, Mile Riley, Charles Hyde, Margaret Culbertson, Mary Hay, James Denniston, Mathias Shroyer, Philip Lightfoot, William Ray, John Followell, John Hall, Leonard Jarvis, William Milton and others, and the bill for the relief of William Nichols, made a report; which was read and considered: Whereupon,

Resolved, That the Committee of Claims be discharged therefrom, and that the further consideration of the said petitions and bill be postponed until the next session of Congress.

PRESIDENT'S HOUSE.

The House resolved itself into a Committee of the Whole on the bill for the further accommodation of the President of the United States.

The object of this bill was to apply six thousand dollars, remaining of the appropriation of \$15,000, during the last session, for furnishing the President's house—together with the proceeds of such

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President's House.

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furniture as, being unfit for use, might be sold, to procure such additional furniture as might be necessary.

Mr. HARPER contended that the sum was too small for so large and elegant a house as was provided for that officer. Though the house was neither too large nor too elegant, yet the furniture was by no means sufficient to furnish it in that style it demanded. Perhaps, he said, the furniture might produce five thousand dollars, which added to the six thousand dollars, and to that added ten thousand dollars, he would now move as an amendment to the bill. This amounted to twenty thousand dollars, for furniture, which he believed was as small a quantity as would be any way adequate to that place.

Mr. NICHOLAS said the committee (of which he was one) had endeavored to procure the best possible information of the state of the furniture now in the house; they were well satisfied that the sum in hand which the bill proposed to expend, with the proceeds of sale from such as might be unfit, would be perfectly competent to that decency of style which the manner of living of that officer could require. But, he said, he should despair of forming an agreement of opinions as to the sum requisite, without the style could be ascertained in which it was desirable to support the President of the United States.

Mr. S. SMITH hoped the motion would not prevail. He could see no necessity whatever for more to be appropriated than the unexpended six thousand dollars proposed. In twelve years, he said, there had been thirty thousand dollars used for this object. The present furniture, with what this money and the proceeds of the sale would procure, would make a very handsome quantity, and be fully adequate to the wants of the House. From his observation in such parts of the house as were occupied, he could perceive no want of furniture nor elegance.

Mr. CRAIK differed in opinion with his colleague (Mr. SMITH) that the style of the rooms now furnished was such as was desirable. What then could be said, when it was considered that the largest and most elegant rooms were not yet furnished? But furniture must be procured for these apartments before the next session of Congress, and it would certainly require much more money than was proposed to be used upon it. If it was considered that the whole sum was appropriated every four years, he hoped gentlemen would cease their objections to the ten thousand dollars proposed.

Mr. MACON believed the sum already appropriated to be adequate to all the style and elegance that officer would require. For his part he could see no more occasion for furnishing a house for the President than for the Heads of Departments. If he chose to live in style, twenty-five thousand dollars a year was quite sufficient to enable him to do it, and if he could not live upon that sum, he could not live upon any. Forty-five thousand dollars had been appropriated for President's furniture, thirty-six thousand or more of which had been expended; but now, in addition to the six

thousand on hand, a gentleman wanted to give ten thousand more! For what, he would ask? If that sum was not enough, no sum whatever would be enough. He believed this sum would be sufficient for fifty years service, and he hoped the House would not appropriate a farther sum. If the style of the furniture was raised so very high, he should not be surprised soon if there was to be a proposition to make the salary a little more adequate to the style of the furniture, and raise that too, to bring him up to the style of his furniture.

Mr. BAYARD wished not to extend it so far as the gentleman from South Carolina. As heretofore fourteen thousand dollars had been appropriated, he would propose to this six thousand dollars, supposing the proceeds of sales to amount to three thousand dollars, to add fourteen thousand, a medium which he considered sufficient.

Mr. HARPER observed that the proceeds of the sales had been usually granted in addition to the money appropriated. He wished the sum of ten thousand dollars, as proposed, to be appropriated; however, as objections were made, he was willing to modify it, and make it eight thousand dollars, which, with the six thousand remaining, would make the usual sum of fourteen thousand dollars; to which sum he hoped no gentleman would object.

Mr. VARNUM reminded the Committee, that the fourteen thousand dollars first given, were to furnish an empty house; the furniture then purchased remained during the eight years of General WASHINGTON's administration, and he believed no complaints of inadequacy were heard. At the close of his period of office, and before Mr. ADAMS came into office, fourteen thousand dollars more were appropriated, together with the proceeds of the sale of such as was unfashionable or decayed. He did not know that the amount of the sales was ascertained, but it was added in the additional purchase. To this had been added the appropriation of last year to furnish the present house, all of which had not been expended. He always had supposed that the whole of these sums were intended solely for the providing of household furniture. It appeared, however, that this law had received a different construction by the President, than he had heard given to it by any gentleman on the floor; for in the inventory of furniture remaining on hand, which had been supplied to the house, he saw an item of seven horses and a carriage, and even a market wagon, together with harness, &c. This plainly evinced that the House had appropriated fifteen thousand dollars for household furniture—the President had thought himself authorized to purchase carriages, horses, and perhaps other things which convenience might suggest.

Mr. MACON said, the arguments of the gentleman from Delaware, who had proposed a sum much more to his liking, because it was less, went to prove that fourteen thousand dollars must be appropriated every four years; but upon this principle there would be a great amount of furniture in a few years, by the sums being heaped on each other. Now, for his part, he was not willing to take away anything of the thirty thousand dollars which had been laid out, but he would even add

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to it the remaining sum in hand, and surely this must be sufficient, though in his opinion there would be no necessity for it.

Mr. S. SMITH thought gentlemen were completely acquainted with the quantity or the kind of furniture which had been provided for that house. The articles which had been mentioned were certainly improper items in household furniture. He much disapproved of the manner in which the money had been laid out, and believed no gentleman could approve of it, as a compliance with the law. However, he had no idea of going into the subject at this time, lest it should lead him further than he would wish to go.

Mr. HARPER said, the very argument used by the gentleman last up carried the evidence of its own impotence; for, if of this sum much had been expended upon other objects, not household furniture, it proved that there was the more occasion for money to be appropriated for the purpose to which that ought to be applied. He knew of no object to which the gentleman's observations were applied, otherwise than to evince his disposition to trample, very unworthily indeed, upon those who are already fallen. He hoped, however, that this disposition would not excite the gentleman to withhold such measures as were necessary to carry into execution what was already begun.

Mr. SMITH could not conceive how he had endeavored unworthily to trample upon the fallen. He reflected upon no individual, nor did he know the gentleman's meaning. To such persons as had been engaged in making this very improper selection of furniture, he did, however, refer. He meant to say, that if this money had been laid out upon furniture the house would have had a better appearance than at present, though at present he could see no deficiency.

The question on Mr. HARPER's motion, foreight thousand dollars, was taken and negatived.

Mr. BAYARD's, for five thousand, shared the same fate. Mr. HARPER moved four thousand, which was carried in the same way; on which Mr. H. withdrew the amendment altogether. The bill was engrossed, and passed its third reading during the day.

MAUSOLEUM TO WASHINGTON.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act to erect a mausoleum for GEORGE WASHINGTON." Whereupon,

A motion was made and seconded to amend the amendment of the Senate to the first section of the said bill, by striking out, from the tenth line thereof, the word "fifty," for the purpose of inserting, in lieu thereof, the word "one hundred."

And the question being taken thereupon, it passed in the negative—yeas 34, nays 49, as follows:

YEAS—George Baer, Bailey Bartlett, James A. Bayard, John Brown, William Craik, Samuel W. Dana, Franklin Davenport, John Dennis, Joseph Dickson, Thomas Evans, Abiel Foster, Henry Glen, Chauncey Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Archibald Henderson, William H. Hill, Benjamin Huger, John Wilkes Kittera, Henry

Lee, Lewis R. Morris, Robert Page, Thomas Pinckney, Jonas Platt, Leven Powell, Nathan Reed, John C. Smith, James Sheafe, George Thatcher, John Chew Thomas, Lemuel Williams, and Henry Woods.

NAYS—Willis Alston, Theodorus Bailey, John Bird, Phaniel Bishop, Robert Brown, Samuel J. Cabell, Christopher G. Champlin, Gabriel Christie, Mathew Clay, William Charles C. Claiborne, John Davenport, Thomas T. Davis, John Dawson, William Edmond, Joseph Eggleston, John Fowler, Albert Gallatin, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, George Jackson, Levi Lincoln, Matthew Lyon, James Lynn, Edward Livingston, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph Nicholson, John Randolph, John Reed, William Shepard, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, Thomas Sumter, John Stewart, Benjamin Taliaferro, Samuel Tenney, John Thompson, Abram Trigg, John Trigg, Joseph B. Varnum, and Peleg Wadsworth.

The said amendments of the Senate were then further amended at the Clerk's table, and, on the question that the House do agree to the said amendments as amended, it was resolved in the affirmative—yeas 46, nays 33, as follows:

YEAS—Theodorus Bailey, Bailey Bartlett, John Bird, Phaniel Bishop, Robert Brown, Samuel J. Cabell, Mathew Clay, William C. C. Claiborne, Samuel W. Dana, John Davenport, John Dawson, Joseph Eggleston, John Fowler, Albert Gallatin, Chauncey Goodrich, Andrew Gregg, William Barry Grove, John A. Hanna, Joseph Heister, David Holmes, John Wilkes Kittera, Michael Leib, Levi Lincoln, Matthew Lyon, James Lynn, Edward Livingston, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, John Reed, Nathan Read, William Shepard, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, David Stone, Benjamin Taliaferro, Samuel Tenney, John Chew Thomas, John Thompson, Abram Trigg, John Trigg, Joseph B. Varnum, and Peleg Wadsworth.

NAYS—James A. Bayard, John Brown, Christopher G. Champlin, Gabriel Christie, William Craik, Franklin Davenport, John Dennis, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Henry Glen, Roger Griswold, Robert Goodloe Harper, Archibald Henderson, Benjamin Huger, James H. Inlay, George Jackson, Henry Lee, Silas Lee, Ebenezer Mattoon, Robert Page, Thomas Pinckney, Jonas Platt, John Randolph, John C. Smith, Richard Stanford, Thomas Sumter, James Sheafe, John Stewart, George Thatcher, Lemuel Williams, and Henry Woods.

TUESDAY, March 3.

An engrossed bill further to amend the act, entitled "An act for establishing the temporary and permanent seat of the Government of the United States," was read the third time, and passed.

An engrossed bill for erecting light-houses on New Point Comfort, and on Smith's Point, in the State of Virginia, and on Faulkner's Island, in Long Island Sound, in the State of Connecticut, and for placing buoys in Narraganset Bay," was read the third time, and passed.

Resolved, That the said bill do pass, and that the title be, "An act for erecting light-houses on

MARCH, 1801.

Sergeant-at-Arms, &c.—Winthrop Sargent.

H. OF R.

New Point Comfort, and on Smith's Point, in the State of Virginia, and on Faulkner's Island, in Long Island Sound, in the State of Connecticut, and for placing buoys in Narraganset Bay."

Mr. NICHOLAS, from the committee appointed, on the twenty-third ultimo, to direct such an arrangement of the Chamber of this House as will be best adapted to the preservation of order, made a report; which was read, and ordered to lie on the table.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act to augment the salaries of the District Judges in the districts of Massachusetts, New York, New Jersey, Delaware, and Maryland, respectively," with an amendment; to which they desire the concurrence of this House. The Senate have passed the bill, entitled "An act in addition to an act, entitled 'An act making provision for the further accommodation of the household of the President of the United States,'" with an amendment; to which they desire the concurrence of this House.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act in addition to an act, entitled 'An act in addition to an act, entitled 'An act making provision for the further accommodation of the household of the President of the United States: Whereupon,

Resolved, That this House doth agree to the said amendment.

On motion, *Resolved*, That the Clerk of this House be authorized and directed to pay, out of the moneys appropriated to defray the contingent expenses of the House to the principal and engrossing clerks in the office of the Clerk of the House, respectively, two hundred dollars each, for their extra services during the present session.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to prohibit the Secretary of the Navy from being concerned in trade, or commerce, or navigation;" to which they desire the concurrence of this House.

The bill from the Senate, entitled "An act to prohibit the Secretary of the Navy from being concerned in trade, or commerce, or navigation," was read the first and second time.

SERGEANT-AT-ARMS, &c.

On a motion made and seconded that the House do come to the following resolution, to wit:

Resolved, That the Clerk of this House be authorized and directed to pay to the Sergeant-at-Arms, out of the money appropriated to defray the contingent expenses of the House of Representatives, the sum of ——— dollars for extra services:

Ordered, That the said motion be committed to a Committee of the whole House immediately.

The House, accordingly, resolved itself into the said committee; and, after sometimespent therein, the Committee rose and reported one amendment thereto; which was twice read, and agreed to by the House.

The said resolution was then further amended at the Clerk's table, and being again read, in the words following, to wit:

Resolved, That the Clerk of this House be authorized and directed to pay to the Sergeant-at-Arms, the Doorkeeper and Assistant Doorkeeper, out of the money appropriated to defray the contingent expenses of the House of Representatives, the sum of two hundred dollars, each, for extra services:

The question was taken that the House do agree to the same, and resolved in the affirmative, yeas 39, nays 20, as follows:

YEAS—George Baer, Bailey Bartlett, James A. Bayard, John Brown, Christopher G. Champlin, William Craik, Samuel W. Dana, Franklin Davenport, Thomas T. Davis, John Dennis, Joseph Dickinson, Thomas Evans, Abiel Foster, Henry Glen, Robert Goodloe Harper, Archibald Henderson, Benjamin Huger, Henry Lee, Silas Lee, Michael Leib, Levi Lincoln, Lewis R. Morris, Peter Muhlenberg, Joseph H. Nicholson, Robert Page, Thomas Pinckney, Jonas Platt, John Randolph, John Reed, Samuel Smith, John C. Smith, John Stewart, Benjamin Taliaferro, Samuel Tenney, George Thatcher, John Chew Thomas, Lemuel Williams, and Henry Woods.

NAYS—Willis Alston, Phaniel Bishop, Robert Brown, Samuel J. Cabell, Matthew Clay, William C. C. Claiborne, John Dawson, George Dent, Joseph Eggleston, Albert Gallatin, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, George Jackson, James Lynn, Edward Livingston, Nathaniel Macon, John Nicholas, John Smilie, John Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, Thos. Sumter, Abram Trigg, John Trigg, and Joseph B. Varnum.

WINTHROP SARGENT.

Ordered, That the Committee of the whole House, to whom was committed, on the nineteenth ultimo, the report of the committee appointed to inquire into the official conduct of Winthrop Sargent, Governor of the Mississippi Territory, be discharged from the further consideration thereof.

The House then proceeded to consider the said report at the Clerk's table, and, the resolution contained therein being then read in the words following, to wit:

Resolved, That there does not appear cause for further proceedings on the matters of complaint for mal-administration against Winthrop Sargent, as Governor of the Mississippi Territory."

The question was taken that the House do agree to the same, and it passed in the negative—yeas 38, nays 40, as follows:

YEAS—George Baer, Bailey Bartlett, James A. Bayard, Jno. Brown, Christopher G. Champlin, Wm. Craik, Saml. W. Dana, John Davenport, Franklin Davenport, John Dennis, Joseph Dickinson, Wm. Edmond, Thomas Evans, Abiel Foster, Henry Glen, Chauncey Goodrich, Roger Griswold, Wm. B. Grove, Robert Goodloe Harper, Archibald Henderson, James H. Inlay, John Wilkes Kittera, Henry Lee, Silas Lee, Lewis R. Morris, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, Nathan Read, William Shepard, John C. Smith, James Sheafe, Samuel Tenney, George Thatcher, John Chew Thomas, Lemuel Williams, and Henry Woods.

H. OF R.

Secretary of the Navy.

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NAYS—Willis Alston, Theodorus Bailey, Phanael Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William C. C. Claiborne, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, John Fowler, Albert Gallatin, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, Michael Leib, Levi Lincoln, Matthew Lyon, James Lynn, Edward Livingston, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, John Randolph, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, Thomas Sumter, John Stewart, Benjamin Taliaferro, Abram Trigg, and John Trigg.

And, an adjournment being called for, the House adjourned until six o'clock, P. M.

6 O'CLOCK, P. M.

A message from the Senate, informed the House that the Senate have passed the bill entitled "An act for altering the times and places of holding certain courts therein mentioned, and for other purposes," with an amendment; to which they desire the concurrence of this House; also, the bill, entitled "An act providing for a Naval Peace Establishment, and for other purposes," with an amendment; to which they desire the concurrence of this House; and, also, the bill, entitled "An act supplementary to the act, entitled 'An act concerning the District of Columbia,' with amendments; to which they desire the concurrence of this House.

The House proceeded to consider the amendment proposed by the Senate to the bill, entitled "An act for altering the times and places of holding certain courts therein mentioned, and for other purposes:" Whereupon,

Resolved, That this House doth agree to the said amendment.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act supplementary to the act, entitled 'An act concerning the District of Columbia:'" Whereupon,

Resolved, That this House doth agree to the said amendment.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act supplementary to the act, entitled 'An act concerning the District of Columbia:'" Whereupon,

Resolved, That this House doth agree to the said amendments.

A message from the Senate informed the House that the Senate insist on their amendment, disagreed to by this House, to the bill, entitled "An act fixing the compensation of Receivers of Public Moneys for lands of the United States, and regulating the mode of calculating discounts in case of prompt payment for the said lands."

A motion was then made and seconded that the further consideration of the said bill and amendment be postponed until the next session of Congress.

And, the question being taken thereupon, it was resolved in the affirmative.

A message from the Senate informed the House

that the Senate have passed the bill, entitled "An act fixing the compensation of Receivers of Public Moneys for lands of the United States, and regulating the mode of calculating discounts in case of prompt payment for the said lands," with amendments; to which they desire the concurrence of this House.

The House proceeded to consider the amendments proposed by the Senate to the last mentioned bill: Whereupon,

Resolved, That this House doth agree to the said amendments, except the amendment for striking out the second section, to which this House doth disagree.

On motion, it was *Resolved*, That there be allowed to the Clerk of this House, to compensate for his extraordinary expenses during the present session of Congress, the sum of three hundred dollars, to be paid to him out of the moneys appropriated for defraying the contingent expenses of the House.

On motion, it was *Resolved*, That the Clerk of this House do pay to the Chaplain of this House the sum of one hundred dollars, out of the moneys appropriated for the contingent expenses of the House, in addition to the compension allowed him by law.

SECRETARY OF THE NAVY.

The bill sent from the Senate, entitled "An act to prohibit the Secretary of the Navy from being concerned in trade, or commerce, or navigation," was read the third time.

MR. S. SMITH said the evident tendency of the bill was to prevent the Executive selecting mercantile men to fill these offices. [Mr. LIVINGSTON had moved to add the Secretaries of State and of War.] He wished to know what occurrence had transpired to make such a prohibition necessary? None had been mentioned, none he believed had existed. In the particular instance of prohibiting the Secretary of the Treasury from engaging in trade, &c., there was more reason, from his having in his possession much public money, and because it would be exceedingly improper to open the means for him to trade or speculate with it; but there could not be the same occasion for prohibiting the other officers. If the prohibition were now to take place, it would be supposed by the world, that the gentlemen who had filled these offices had actually traded with the money which passed through their hands belonging to the public. One of the gentlemen, who was Secretary at War, was at the time he was chosen to office, a commercial man; but was it ever said, or even thought, that he acted dishonestly, or used public money to promote his private interest? He believed not. He thought there was no doubt of his integrity. Why, then, should the House prevent the President of the United States from choosing men for office out of what class of citizens his judgment might suggest? What, he would ask, had commercial men done to merit this peculiar mark of the distrust of the gentleman from New York? He wished gentlemen to look at the revenue laws and the duties. Were they not paid by commercial

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Secretary of the Navy.

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men? The amount of their actual payments at the custom-house and their general conduct, he thought, fully evinced the honor and the honesty of that class of men, and proved them worthy to be entrusted, as well as other citizens, with offices of trust. But did the gentleman suppose his proposition would effect this end? If so, he was mistaken; for if a man entrusted with public property, choose to use it speculation or in commerce, what was to prevent him, whether merchant or not? Other means could be found than those which every one could discover. He hoped the amendment and the law itself would be negatived.

Mr. CHRISTIE moved to postpone it till fifty minutes past 11 o'clock; which was not carried.

Mr. LIVINGSTON said he had attended in vain to hear any distinction drawn between the Secretary of the Navy and those of the State and War Departments. To that difference only the arguments ought to have gone, for no further did his motion go; but gentlemen had argued against the whole principle of the bill. The argument of the motion implying distrust might have had some weight as the bill stood before, but to include the heads of all the departments was a sufficient answer. It was not upon grounds of distrust that he made his motion; it was upon the wide, incontrovertible principle, that when a man is taken to fill either of those great departments, the country has a right to his whole time and his whole attention, that the motion was made. What, he would ask the gentleman last up, could have induced him to suppose that the merchant alone was pointed out as an object of distrust? Mr. L. declared he distrusted no particular set of men, but what figure would a merchant or a tradesman make at the head of either of these departments? The principle was incontrovertible, that nothing ought to interfere to divert attention from the public concerns of a high office. This was not a paltry question between the merchant and the lawyer. No more should a Judge of the United States be drawn from his studies or his bench by any other avocation he might wish to possess for lucre than should a Secretary from his office.

Mr. L. would further observe, that it was not from any misconduct of this kind which he had observed in those who had filled public offices. He rather wondered that it had not long ere now been introduced as a just principle in the management of public concerns. It was from this view he wished to introduce it; and how the reasons for the bill, without the amendment, could be supported, he could not conceive.

Mr. H. LEE contended that the President of the United States was to take his Cabinet from among the people of the United States, and ought not to be prohibited from selecting such men as he thought fit to fill the offices with credit to themselves and to the nation. Sir, when I see the President made the agent of these two Houses, and restricted by them, I see that high officer prostrate at your feet, and the liberties of the people gone! If gentlemen tell me that the President has yet his selection because the gentlemen may quit their business, I deny it. I say that a man, once become a mer-

chant and continuing in that occupation for ten years, is a merchant for life; for let him leave off pursuits at any period, there must of necessity remain very much unfinished business, which, if he studies his own interest, must be attended to. Sir, trammel not your President in his choice; let him have the liberty of choosing men of honor and integrity, and you need not fear a derogation from those principles more than from men of independence. This new principle in legislation I am not for adopting. I never can deviate from those principles under which our happy Government has so long flourished. I am advocating principles, and giving to the President of the United States the same power, the same freedom of selection, I would have given four years ago, although the gentleman who fills that high office is not the same. Commercial men, sir, are the most competent for the office of Secretary of the Navy, because most acquainted with the foreign relations and concerns of our country. Preclude commercial men from being selected, and you preclude those the most qualified.

Mr. LIVINGSTON explained the motives of his conduct. He wished to preserve that system of conduct which he always had advocated; he wished to give to the Executive that direction and limitation he had always desired to do. It was always his opinion, and continued to be so, that if all men were honest there would be no occasion for laws; if all men were honest there would be no occasion for that House to sit to make them, and therefore they might go home and never return. But this was not the case; while there were men, there must be laws, and strict laws, to keep men to their duty.

Mr. H. LEE having obtained leave to speak again, further contended against the principle of the bill and amendments, and hoped the House would not place the President in such a subaltern situation as this measure would place him in, and snatch from him a prerogative his situation demanded.

Mr. CHAMPLIN was surprised that the gentleman from New York, a representative of a commercial city, should advocate such principles. He conceived it to be a question of confidence in the President of the United States, and perhaps would be of some weight, if that officer had not the power of removing the Secretaries of the different departments whenever he should think them unworthy of public confidence; or whenever they should use the public money to private purposes; or whenever they should neglect their business. This was certainly a very different case from that of a Judge, who could not be removed except upon misconduct, which could only be known by impeachment. He opposed the bill and the amendment, because it was an intrusion upon Executive privilege; because it must go to wound the officers who had been and are now employed; because it must go to prevent that selection of men whose talents and integrity may be most calculated for the general interest of the Union; and most of all, because it went to wound the Navy of the United States, whose well government and

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Thanks to the Speaker.

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regulation depended very much upon the talents of the character who was placed at the head of that department; it was not because it affected this or that merchant or tradesman. He wished to see a man of property; a man of commercial knowledge; a man of experience; and a man who was attached to the Navy, at the head of that department. By this bill a man in that situation must be prohibited from placing his money in the public funds; from dealing in public lands; from putting it in commerce, or from using it in trade of any kind. Now, what was a man of large property to do with his money? It could not be supposed that men of large capital, or men of business, or men of experience, would accept an appointment under the limitations to which they must subject themselves.

Mr. MACON hoped the amendment would be agreed to, and the bill pass. He supposed the bill must have originated in the Senate, either from past experience, or from the intrinsic necessity of such a preventive to what might produce a public fraud, by public money being used to speculate for private advantage. Man is man wherever he is placed, and to guard against his frailties is wise legislation. He wished to confide the money of the people to no man further than was necessary.

Mr. S. SMITH answered, that it would be impossible, by any measure of this kind, to make a dishonest man act with integrity. It must be to the honor and honesty of the man the public property must be confided. He produced an instance of speculation in a public officer, who was entrusted with the good of the community; but it was not the act of a merchant, he said; and not from merchants, nor from any particular description of men, but men devoid of principle, evils were to be expected. On the contrary, integrity and honesty alone could insure the right use of a public confidence.

On the question, the amendment was lost.

The bill was also refused a third reading and lost.

THANKS TO THE SPEAKER.

Mr. PAGE moved the following resolution:

Resolved, That the thanks of the House be presented to Theodore Sedgwick for his conduct while in the Chair of this House.

The question was taken whether this motion was in order. It was decided to be in order.

The yeas and nays were ordered.

Mr. CHRISTIE said he should not point out the improprieties in the conduct of the Speaker while in the Chair, otherwise than by his vote, though he possessed the right to call up to the recollection of the House the many inconsistencies his presidency had been marked with. In doing that, Mr. Speaker, I shall behave better to you than you have ever done to me.

The cry of "order!" "order!" prevented any more being said, and Mr. C. sat down.

The yeas and nays were then taken, and resulted—yeas 40, nays 35, as follows:

YEAS—George Baer, Bailey Bartlett, James A. Bayard, John Brown, Christopher G. Champlin, William

Craik, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, Joseph Dickson, William Edmond, Thos. Evans, Abiel Foster, Henry Glen, Chauncey Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Archibald Henderson, Benjamin Huger, James H. Inlay, John Wilkes Kittera, Henry Lee, Silas Lee, Lewis R. Morris, Robert Page, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, Nathan Read, William Shepard, John C. Smith, James Sheafe, Samuel Tenney, George Thatcher, John Chew Thomas, Lemuel Williams, and Henry Woods.

NAYS—Willis Alston, Theodorus Bailey, Robert Brown, Samuel J. Cabell, Gabriel Christie, William Charles Cole Claiborne, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, John Fowler, Albert Gallatin, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, Michael Leib, Matthew Lyon, James Lynn, Edward Livingston, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, John Randolph, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, Thomas Sumter, Abram Trigg, John Trigg, and Joseph B. Varnum.

Whereupon, Mr. SPEAKER made his acknowledgments to the House in the manner following:

Accept, gentlemen, my thanks, I pray you, for the respectful terms in which you have been pleased to express the opinion you entertain of the manner in which I have discharged the arduous duties of the station to which I was raised by your kind regard.

Although I am conscious of having intended faithfully to execute the trust confided to this Chair, yet I am sensible that, whatever success may have attended my endeavors, is justly attributable to the candid, honorable, and firm support which you have constantly afforded. I cannot lay the least claim to merit for any thing that I have done; because the generous confidence which you had reposed in me, demanded that I should devote all my feeble talents to your service.

Being now about to retire from this House, and, as I hope, from the public councils forever, permit me, gentlemen, to bid you, collectively and individually, an affectionate farewell. It is true that I have long wished to indulge repose in the shade of private life; but the moment of separation inflicts an anguish inexpressible by language. It is a separation from men of dignity of character, of honorable sentiments, and of disinterested patriotism; an association with whom has been my pride and solace amidst all the fatigue and vexation of public life. Of the friendship of such men, long uninterrupted and cordial as it has been, I shall always cherish a grateful remembrance. May you receive the reward most grateful to generous spirits, the reward of witnessing, as the effects of your labors, the increasing prosperity, and happiness, and glory, of your country.

As the last words which I shall utter, as a public man, allow me to declare, that those with whom I have had the honor, here, to act and think, whose confidence I have enjoyed, whose bosoms have been opened to my inspection, in my cool and reflected opinion, deserve all of esteem, affection, and gratitude, which their countrymen can bestow. On this occasion I deem myself authorized, from the present circumstances, to make this declaration; and I do it in the most solemn manner, in the presence of the assembled Representatives of America; and not only so, but in the awful presence of that heart-searching Being to whom I feel myself responsible for all my conduct. May the Almighty keep you in his holy protection. Farewell.

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Adjournment.

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A message from the Senate informed the House that the Senate have appointed a committee on their part, jointly, with such committee as may be appointed on the part of this House, to wait on the President of the United States, and to inform him that Congress is ready to adjourn without day, unless he may have any further communications to make to them.

The House proceeded to consider the foregoing resolution of the Senate, agreed to the same, and appointed Mr. PINCKNEY and Mr. GROVE the committee on the part of this House.

Mr. PINCKNEY, from the joint committee of the two Houses, appointed to notify the President of the United States of the proposed recess of Con-

gress, reported that the committee had, according to order, performed that service, and that the President signified to them that he had no further communication to make, but the expression of his wishes for the health and happiness of the members, and a pleasant journey on their return to their homes and families.

Ordered, That a message be sent to the Senate to inform them that this House, having completed the business before them, are now ready to adjourn without day; and that the Clerk of this House do go with the said message.

The Clerk accordingly went with the said message; and being returned, Mr. SPEAKER adjourned the House, *sine die*.

APPENDIX

TO THE HISTORY OF THE SIXTH CONGRESS.

COMPRISING THE MOST IMPORTANT DOCUMENTS ORIGINATING DURING THAT CONGRESS, AND THE PUBLIC ACTS PASSED BY IT.

FRANCE.

[Communicated to Congress, December 5, 1799.]

*Gentlemen of the Senate, and
Gentlemen of the House of Representatives:*

I transmit to Congress certain documents which have relation to the communications made on Tuesday, on the subject of the renewal of commerce with St. Domingo, and the mission to the French Republic.

JOHN ADAMS.

UNITED STATES, Dec. 5, 1799.

Renewal of Commerce with St. Domingo.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas, by an act of the Congress of the United States, passed the 9th day of February last, entitled "An act further to suspend the commercial intercourse between the United States and France, and the dependencies thereof," it is provided, That, at any time after the passing of this act, it shall be lawful for the President of the United States, if he shall deem it expedient and consistent with the interests of the United States, by his order, to remit and discontinue for the time being, the restraints and prohibitions by the said act imposed, either with respect to the French Republic, or to any island, port, or place, belonging to the said Republic, with which a commercial intercourse may safely be renewed; and also to revoke such order whenever, in his opinion, the interests of the United States shall require; and he is authorized to make proclamation there-of accordingly:

And, whereas, the arrangements which have been made at St. Domingo, for the safety of the commerce of the United States, and for the admission of American vessels into certain ports of that island, do, in my opinion, render it expedient, and for the interest of the United States, to renew a commercial intercourse with such ports:

Therefore, I, JOHN ADAMS, President of the United States, by virtue of the powers vested in me by the above-recited act, do hereby remit and discontinue the restraints and prohibitions therein contained, within the limits and under the regulations here following, to wit:

1. It shall be lawful for vessels which have departed or may depart from the United States, to enter the ports of Cape François and Port Republicain, formerly called Port-au-Prince, in the said island of St. Domingo, on and after the 1st day of August next.

2. No vessel shall be cleared for any other port in St. Domingo than Cape François and Port Republicain.

3. It shall be lawful for vessels, which shall enter the said ports of Cape François and Port Republicain, after the thirty-first day of July next, to depart from thence to any port in said island between Monte Christi, on the north, and Petit Goave, on the west, provided it be done with the consent of the Government of St. Domingo, and pursuant to certificates or passports expressing such consent, signed by the Consul General of the United States, or Consul residing at the port of departure.

4. All vessels sailing in contravention of these regulations will be out of the protection of the United States, and be, moreover, liable to capture, seizure, and confiscation.

Given under my hand and the seal of the United States, at Philadelphia, the twenty-sixth day of June, in the year of our Lord 1799, and of the independence of said States the twenty-third.

JOHN ADAMS.

By the President:

TIMOTHY PICKERING,
Secretary of State.

Mission to France.

Letter from Patrick Henry, Esq., to the Secretary of State.

CHARLOTTE COUNTY, (Va.)

April 16, 1799.

SIR: Your favor of the 25th ultimo did not reach me till two days ago. I have been confined for several weeks by a severe indisposition, and am still so sick as to be scarcely able to write this.

My advanced age and increasing debility compel me to abandon every idea of serving my country, where the scene of operation is far distant, and her interests call for incessant and long-continued exertion. Conscious as I am of my inability to discharge the duties of Envoy, &c.

Relations with France.

to France, to which, by the commission you send me, I am called, I herewith return it.

I cannot, however, forbear expressing on this occasion, the high sense I entertain of the honor done me by the President and Senate in the appointment; and I beg of you, sir, to present me to them in terms of the most dutiful regard, assuring them that this mark of their confidence in me, at a crisis so eventful, is a very agreeable and flattering proof of their consideration towards me, and that nothing short of absolute necessity could induce me to withhold my little aid from an Administration whose abilities, patriotism, and virtue, deserve the gratitude and reverence of all their fellow-citizens.

With sentiments of very high regard, and unfeigned esteem, I am, sir, &c.

P. HENRY.

Copy of a letter from Mr. Talleyrand, as Minister of Exterior Relations, to Mr. Pichon, Secretary of Legation, Hague, dated

PARIS, 11th *Fructidor*,
(August 28, 1798,) 6th year.

I see with pleasure, citizen, that the intercourse of society has procured you some political conversations with Mr. Murray. I entertain an esteem for that Minister. Like all the men at the head of the affairs of the United States, he has received the impressions which the British Cabinet has known how to give against us. He thinks the measures of his Government just, and supports them; but he possesses reason, understanding, and a true attachment to his country: he is neither French nor English: he is ingeniously an American. I am not at all surprised that he has appeared to you to wish sincerely for the reconciliation of the two Republics. I will, therefore, cheerfully answer the questions you put to me on different points, which appeared to you not to be well established in his mind.

I do not see between France and the United States any clashing of interests, any cause of jealousy. The Americans wish to be fishermen, sailors, manufacturers, and especially husbandmen. In all these points of view, their success is more at the expense of England than us. Why should we be uneasy about them? They aspire to the consolidation of their national existence, and it is to our purpose that they should succeed. In fact, we should have decided upon very superficial views to sustain their independence, if the matter was to separate them from England merely to leave them finally insulated among themselves, on an extensive seacoast, weak, rivalling, and impoverished by each other, and torn by foreign intrigues. We know that Great Britain would soon have to put together, piece by piece, those scattered shreds, and we should have done nothing useful for ourselves, if so miserable a chance of it were not daily rendered more remote.

What, therefore, is the cause of the misunderstanding, which, if France did not manifest herself more wise, would henceforth induce a violent

rupture between the two Republics? Neither incompatible interests, nor projects of aggrandizement, divide them. After all, distrust alone has done the whole. The Government of the United States has thought that France wanted to revolutionize it. France has thought that the Government of the United States wanted to throw itself into the arms of England. It does not require much skill to divine which is the Cabinet interested in the two events producing each other, and which invisibly puts in motion all the expedients calculated to make them take effect. Let us open our eyes on both sides. I am disposed to admit that the conduct of the Government of the United States may be explained by other causes than those heretofore presumed. But let it on its part understand that the French Government, wounded as it may be, is too wise to entertain the views of disturbance which the other supposes. It concerns a Republic, founded on the system of representation, to support and not to weaken similar establishments. The stability of this system abroad is a necessary example at home. France, in fine, has a double motive, as a nation and as a Republic, not to expose to any hazard the present existence of the United States. Therefore, it never thought of making war against them, nor exciting civil commotions among them; and every contrary supposition is an insult to common sense.

These fundamental principles being established, it is natural to ask by what fatality a good understanding was not long since restored. It was because irritation being mingled with distrust, neither party yielded to real conciliatory inclinations. In the United States it was supposed that the French Government was temporizing, in order to strike the blow with greater certainty; whence resulted a crowd of measures more and more aggravating. In France it was supposed that the Government of the United States wished only the appearances of a negotiation, whence resulted a certain demand for pledges of good faith.

Let us substitute calmness for passion, confidence for suspicions, and we shall soon agree. I used my endeavors to enter upon a negotiation in this spirit with Mr. Gerry. My correspondence with him, until the day of his departure, is a curious monument of advances on my part, and of evasions on his. It is wrong to think that I confined myself to vague protestations. Among that series of official letters, which will doubtless be published at Philadelphia, I select one, of the 30th Prairial, wherein you will see that I make very positive propositions, without any mixture of preliminary conditions. This letter was followed by three notes upon the articles to be discussed, and I intended to complete the others in this manner if Mr. Gerry had not refused to answer thereto.

When it became necessary to abandon the idea of treating with that Envoy, who thought it important only to know how a negotiation might thereafter be resumed, I gave him the most solemn assurances concerning the reception that a new Plenipotentiary would receive. It was far from my thoughts to insinuate that the President should send one from the United States, instead of

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investing with his powers some one who was in Europe; far less that the Envoy should land directly in France, instead of announcing it in a neighboring country. I wished merely to say, that the Executive Directory was so decided for a reconciliation, that all tampering would be superfluous, that an act of confidence in it would excite its own. I should be very badly understood, if there should be found in my expressions a restriction on the nature of the choice which the President might make. I wished to encourage Mr. Gerry, by testimonies of regard, that his good intentions merited; although I could not dissemble that he wanted decision, at a moment when he might have easily adjusted every thing. It does not thence follow that I designated him. I will even avow that I think him too irresolute to be fit to hasten the conclusion of an affair of this kind. The advantages which I prized in him are common to all Americans who have not manifested a predilection for England. Can it be believed that a man who should profess a hatred or contempt of the French Republic, or should manifest himself the advocate of royalty, can inspire the Directory with a favorable opinion of the dispositions of the Government of the United States? I should have disguised the truth, if I had left this matter ambiguous. It is not to wound the independence of that Government, to point out a sincere friend of peace the shoals he ought to avoid.

As to the mediation of the Batavian Republic, and of Spain, I do not know that there is any serious question about it, and it appears to me absolutely useless. The United States might hesitate in the present state of things, to refer themselves to their impartiality, and besides, I perceive no subject which may not be arranged directly.

I know that the distance which separates France and the United States opens a vast field for incidents, and there have been but too many of them. But the Executive Directory is unshaken in the conduct which may best obviate them. The excess even of provocations has deadened their effect. The Government of the United States surrounds itself with precautions against an imaginary attack. To stretch the hand to deluded friends, is what one Republic owes to another, and I cannot doubt that the dignity of that attitude will convince the President of our pacific intentions.

The two Governments ought, above all, to be attentive to indirect attempts to alienate them still more. Their prudence will secure this object, and I shall cite but one example of it. You have told Mr. Murray the truth respecting Dr. Logan. But I perceive, that on all hands it is attempted to produce a belief in America, that we are negotiating with him. On the 7th of this month, a very insidious paragraph was inserted in the *Bien Informé*. It is therein intimated that, guided by the citizen Thomas Paine, Dr. Logan has made application to the Executive Directory, in the character of a secret agent. The doctor has complained bitterly of it to me. He has no need of justifying himself concerning the matter, the falsity of which I know better than anybody; but

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he assured me, that having once only met Thomas Paine, at the house of a third person, he found him so prejudiced against the United States, and so opinionative, with respect to an influence he neither possesses among them nor us, that he abstained from conversing any more with him. Moreover, to cut short all misunderstanding, I engaged Dr. Logan to postpone, till another time, the experiment he proposes to make on agriculture, and to return home. As to Mr. Hitchborn, of Massachusetts, I was even ignorant till now that he was in Europe. A single word will suffice for the rest.

We want nothing but justice on the part of the United States; we ask it; we offer it to their Government: it may depend upon the candor of the Executive Directory.

You will not doubt, citizen, that I approve of the communications which your zeal has caused you to seek with Mr. M., since I enabled you to resume them with official elucidations, &c.

CH. MAU. TALLEYRAND.

[This letter was received from Mr. Murray, without the French original.]

The Minister of Exterior Relations to Citizen Pichon, Secretary of Legation of the French Republic, near the Batavian Republic.

PARIS, the 7th Vendemiaire,
(Sept. 28, 1798,) 7th year of the French Republic, one and indivisible.

I have received successively, citizen, your letters of the 22d and 27th Fructidor, (8th and 13th of September.) They give me more and more cause to be pleased with the measures you have adopted to detail to me your conversations with Mr. Murray; those conversations, at first merely friendly, have acquired a consistency, by my sanction, transmitted to you on the 11th Fructidor, (28th of August.) I do not regret that you have trusted to Mr. Murray's honor a copy of my letter. It was intended only for you; and it contains nothing but what is conformable to the Government's intention. I am fully convinced that should explanations once take place with confidence between the two Cabinets, irritation would cease, a number of misunderstandings would disappear, and the ties of friendship would be more strongly united, as both parties would be made sensible what hand had attempted to disunite them. But I do not conceal from you that your letter of the 2d and 3d Vendemiaire, (23d and 24th of September,) this moment arrived, surprises me much. What Mr. Murray is still doubtful of has been very explicitly declared, before even the President's Message to Congress, of the 3d Messidor, (21st of June,) was known in France. I had written it to Mr. Gerry, namely, on the 26th Messidor, (12th of July,) and 4th Thermidor, (July 22d.) I repeated it to him before he set off. A whole paragraph of my letter to you, of the 11th Fructidor, (28th of August,) of which Mr. Murray has a copy, is devoted to develop still more the fixed determination of the French Government. According to these bases, you were right

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to assert that whatever Plenipotentiary the Government of the United States might send to France, in order to terminate the existing differences between the two countries, he would be undoubtedly received with the respect due to the representative of a free, independent, and powerful nation.

I cannot persuade myself, citizen, that the American Government need any further declaration from us to take the resolution, in order to renew the negotiations; to adopt such measures, as would suggest their wish to bring the differences to a peaceable end. If misunderstandings on both sides have prevented former explanations reaching that end, it is presumable that these misunderstandings being done away, nothing henceforth will raise any obstacle to the reciprocal dispositions. The President's instructions to his Envoys at Paris, which I have only been acquainted with, by the copy given to you by Mr. Murray, and by me received the 21st Messidor, (9th of July,) announce, if they contain the whole of the American Government's intentions, dispositions which can only add to those the Directory has always entertained; and notwithstanding the posterior acts of that Government, notwithstanding the irritating and almost hostile measures which they have adopted, the Directory has shown that it persisted in the dispositions consigned as well in my correspondence with Mr. Gerry, as in my letter to you of the 11th Fructidor, and which I have hereinbefore repeated in the most explicit manner. Carry, therefore, citizen, to Mr. Murray these positive expressions; to convince him of our sincerity, and request him to transmit them to his Government.

I presume, citizen, this letter will find you at the Hague; if not, I ask it may be sent back to you at Paris.

Salute and fraternity.

CH. MAU. TALLEYRAND.

No. 22.

DEPARTMENT OF STATE,
Philadelphia, March 6, 1799.

SIR: I enclose a commission constituting you, in conjunction with the Chief Justice Ellsworth and Patrick Henry, Esq., of Virginia, Envoys Extraordinary and Ministers Plenipotentiary to the French Republic. By the President's direction I enclose, for your information, copies of his Messages to the Senate of the 18th and 25th of March, by the latter of which you will see the motives inducing the nomination of a commission for the purpose of negotiating with France, instead of resting the business wholly with you. This will doubtless be agreeable, by relieving you from the weight of a sole responsibility in an affair of such magnitude.

It is the President's desire that you, by letter to the French Minister of Foreign Relations, inform him "that Oliver Ellsworth, Chief Justice of the United States, Patrick Henry, late Governor of Virginia, and yourself, are appointed Envoys Extraordinary and Ministers Plenipotentiary of the United States to the French Republic, with full

powers to discuss and settle by treaty all controversies between the United States and France." But, "that the two former will not embark for Europe until they have received, from the Executive Directory, direct and unequivocal assurances, signified by their Secretary of Foreign Relations, that the Envoys shall be received in character to an audience of the Directory, and that they shall enjoy all the prerogatives attached to that character by the law of nations, and that a Minister or Ministers of equal powers shall be appointed and commissioned to treat with them."

The answer you shall receive to your letter you will be pleased to transmit to this office.

You will also be pleased to understand it to be the President's opinion, that no more indirect and inofficial communications, written or verbal, should be held with any persons whatever, agents on behalf of France, on the subjects of difference between the United States and the French Republic. If the French Government really desire a settlement of the existing differences, it must take the course above pointed out, unless the Executive Directory should prefer sending a Minister Plenipotentiary to the United States.

I have the honor to be, &c.,

TIMOTHY PICKERING.

WILLIAM VANS MURRAY, Esq.,
Minister United States, at the Hague.

THE HAGUE, *May 5, 1799.*

CITIZEN MINISTER: It is with the greatest pleasure that I hasten to fulfil the instructions, which I have just had the honor to receive from the Government of the United States of America, by informing you that the President has appointed Oliver Ellsworth, Chief Justice of the United States, Patrick Henry, late Governor of Virginia, and William Vans Murray, Minister Resident of the United States at the Hague, to be Envoys Extraordinary and Ministers Plenipotentiary of the United States to the French Republic, with full powers to discuss and settle, by a treaty, all controversies between the United States and France; but that the two former (Mr. Ellsworth and Mr. Henry) will not embark for Europe until they shall have received from the Executive Directory direct and unequivocal assurances, signified by their Minister of Foreign Relations, that the Envoys shall be received in character to an audience of the Directory, and that they shall enjoy all the prerogatives attached to that character by the law of nations, and that a Minister or Ministers of equal powers shall be appointed and commissioned to treat with them.

I request you, Citizen Minister, to lay this subject before your Government, and, as the distance is so great and the obstacles so numerous in an Atlantic voyage, that you will favor me, as speedily as possible, with the answer which is to lead to such happy and important consequences.

Accept, Citizen Minister, the assurances of my perfect and high esteem.

WM. V. MURRAY.

Citizen TALLEYRAND, *Minister, &c., Paris.*

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THE HAGUE, May 7, 1799.

DEAR SIR: On the 4th instant, late in the evening, I had the honor to receive your No. 22, containing the commission of Envoys.

On the fifth, I addressed, precisely agreeably to your instructions, as I conceived, the enclosed letter to Mr. Talleyrand, the Minister of Exterior Relations. You will perceive, sir, that I did not think myself at liberty to go, not only not out of the commas, but beyond them; in one word alone I deviated, in the word "Minister" instead of "Secretary" of Foreign Relations. No direct nor indirect and inofficial communications written or verbal will be held by me with the French agents on American affairs.

I accept the appointment which it has pleased the President to clothe me with, under a grateful sense of the high honor conferred upon me, so unexpectedly, by this mark of his confidence. I may be allowed to say, that though I was deeply sensible of the honor conferred by the first nomination, and shall always, I hope, retain a most grateful recollection of it; yet, sir, the new modification of that nomination gave me great pleasure. Always conceiving, as I thought I did, that any negotiation with France would be full of anxieties and political perils to the Envoys that should be employed by our Government, I had no wishes to be engaged in it, and no expectation that I should be: to have a share in it was by me unsought. You will excuse this declaration, because I was instrumental in certain preliminary steps relative to the advances of France, which produced the basis of the appointment.

I sent the original of the enclosed to Mr. Talleyrand by post, another (a copy) to Major Mountflorencia, to be handed to him, a third to a Mr. Griffith for Major M. in case the other failed, to be opened by Mr. G. if Major M. should have been out of Paris, and directed Mr. G. to follow the instructions which he would find in the letter to Major M. which were to deliver the enclosed to Mr. Talleyrand and take his letter, answer for me, and to send it to me

As soon as I have the answer of the Directory, I shall have the honor of transmitting copies to you, sir, by different ways.

I am, with the greatest respect, &c.,

WM. V. MURRAY.

HON. TIMOTHY PICKERING, Esq.,
Secretary of State, United States.

The Minister of Exterior Relations to Mr. William Vans Murray, Minister Resident of the United States at the Hague.

PARIS, 23d Floreal, (May 12, 1799.)
*7th year of the French Republic,
one and indivisible.*

I augur too well, sir, from the eagerness you display in fulfilling the instructions of your Government, not to hasten to answer the letter I received from you dated the 15th of this month.

The Executive Directory being informed of the nomination of Mr. Oliver Ellsworth, of Mr. Patrick Henry, and of yourself, as Envoys Extraor-

dinary and Ministers Plenipotentiary of the United States to the French Republic, to discuss and terminate all differences which subsist between the two countries, sees, with pleasure, that its perseverance in pacific sentiments has kept open the way to an approaching reconciliation. It has a long time ago manifested its intentions with respect to this subject. Be pleased to transmit to your colleagues, and accept for yourself, the frank and explicit assurance that it will receive the Envoys in the official character with which they are invested; that they shall enjoy all the prerogatives which are attached to it by the law of nations, and that one or more Ministers shall be duly authorized to treat with them.

It was certainly unnecessary to suffer so many months to elapse for the mere confirmation of what I have already declared to Mr. Gerry, and which after his departure I declared to you at the Hague. I sincerely regret that your two colleagues await this answer at such a great distance. As to you, sir, whom it will reach in a few days, and who understand so well the value of time, when the restoration of harmony between the two Republics, which everything invites to friendship, is in question, be assured, that as soon as you can take in hand the object of your mission, I shall have the honor immediately to send you passports. Accept, sir, the assurances of my very sincere consideration,

CH. MAU. TALLEYRAND.

[Reported to the House of Reps., Feb. 14, 1800.]

The Committee of Commerce and Manufactures beg leave to report, on the subject of the suspension of the commercial intercourse between the United States and France, that the laws which have been enacted for that purpose have been, as far as appears to the committee, faithfully executed in all respects depending on the care of the officers of the United States. It is but too probable, however, that individuals, engaged in pursuit of private commercial advantages, and regardless of the public welfare, have evaded, in many instances, the provisions of those laws. Some observations from the Secretary of the Treasury relative to these practices, and a detail of the cases, which, under the sixth section of the last act of Congress, prohibiting commercial intercourse with France, have been transmitted to that department, are herewith submitted. The committee, being of opinion that it is expedient further to suspend all commercial intercourse between the United States and France, have prepared a bill for that purpose, which is also submitted, and, in the opinion of the committee, ought to be enacted without delay.

TREASURY DEPARTMENT, Jan. 23, 1800.

SIR: I have the honor to enclose a statement of all the cases which have been transmitted to this department for decision, pursuant to the act of Congress passed on the 9th of February, 1799, entitled "An act further to suspend the commer-

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cial intercourse between the United States, and France and the dependencies thereof."

Although this statement contains the substance of the information desired by the committee, and particularly in what manner the power granted by the sixth section of the act has been exercised, yet it may be useful to observe, that the law of Congress passed on the 13th of June, 1798, which imposed the first restrictions on commercial intercourse with France, was, by this department, understood to declare the following principles, by which the conduct of the collectors of the customs has accordingly been governed.

1st. That all exports to France or her dependencies were prohibited after the 1st day of July, 1798, except the goods and effects of Frenchmen residing in the United States, and about to depart in vessels with permits from the President of the United States.

2d. That the entry of vessels *bona fide* the property of citizens of the United States, or employed by them, and having on board property of such citizens only, was lawful until the 1st day of December, 1798, and no longer.

Although the true interpretation of the law cannot be considered as finally settled by judicial decisions, yet, as diversities of opinion are known to exist, it is desirable that the sense of the Legislature may be ascertained upon the following points, in case the restrictions upon commerce with France shall be continued after the 3d day of March ensuing.

1st. Whether the restrictions shall extend to any except French and American vessels?

2d. Whether trade through a neutral country, by means of a mutual agent of persons residing in the dominions of France and the United States, shall be lawful?

3d. Whether cartel vessels, with passports of the President of the United States, authorizing the departure of French citizens and their effects, shall be exempted from the restrictions imposed on other vessels?

4th. Whether vessels which may be captured or driven by distress into French ports, the cargoes of which may be seized or detained by the French Government, shall be allowed to receive merchandise or produce in exchange, or compensation for the cargoes so seized or detained.

The following practices have been discovered, and may be expected to increase, in case the law shall not provide a competent remedy.

1st. American citizens have proceeded to the island of St. Thomas, and have there obtained certificates of naturalization for themselves and their vessels; with such vessels a direct trade between the United States and French ports has been attempted to be prosecuted in the same manner as before the law was passed.

2d. Agents for commercial houses have been established in the island of St. Thomas, and other neutral places, to whom the productions of the United States have been consigned; these productions have been shipped from thence in other American vessels for French ports. The vessels

employed between the neutral French ports have been generally covered as Danish property.

3d. Although vessels which have been employed in transporting French citizens and their property from the United States have been carefully restricted by instructions, and by the custom-house inspection, from transporting merchandise on account of persons resident in the United States, yet there is reason to suspect that the intentions of the Government have in some instances been evaded. In case it shall be deemed reasonable to continue the provision for removing French citizens and their property, precise regulations for preventing the vessels from being employed in commerce will be highly necessary.

4th. Vessels have been carried to the vicinity of French ports, where, as is believed, they have been captured by French privateers, in consequence of preconceived arrangements: other vessels have entered French ports, on pretence of distress. Although the vessels have in many instances been liberated, yet the cargoes have been detained by order of Government. In some cases the masters or owners have been permitted to purchase return cargoes; latterly, to strengthen the plea for being admitted to entry in the United States, it has been represented that the masters have been compelled to receive cargoes on board their vessels.

The cases of vessels which have been reported as having been captured by privateers, or driven into French ports in distress, have been attended with particular difficulty. In some instances the representations have, doubtless, been fair and correct; but in others they have unquestionably been collusive and fraudulent. The protests and other papers usually produced by masters of vessels could not, however, furnish the means of a just discrimination.

No effectual remedy is perceived against an abuse which must continue to increase, but by declaring importations from French ports to be unlawful in all cases whatever, without excepting those of vessels really captured or driven into French ports in distress. The capture or arrival in distress may be involuntary, and, therefore, not illegal; but the purchase of a new cargo, or any purchase whatever, except of necessities to enable the captured persons to return to their own country, ought, as is believed, to be declared unlawful.

It may be said that such a regulation would be odious and severe; that it would be cruel to oblige men to suffer unnecessary losses, or to abandon their property to great risks when an equivalent was offered. Admitting these objections to have some force, yet it may be observed, with equal truth, that the act prohibiting commercial intercourse ought to be considered, in connexion with other measures, as constituting a part of the system of resistance adopted by the United States; that, prior to the adoption of this system, our vessels were captured and condemned indiscriminately; that the suspension of commerce is a measure which, if well executed, must powerfully influence the conduct of the French colonies; that no system of resistance can be executed without

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exposing our citizens to some losses; that it is impossible to distinguish cases of real capture or distress from those which are fictitious; that many of our citizens will not make reasonable efforts to avoid being captured or entering French ports, if they find themselves exempted from every loss and inconvenience; that the plea of forcible exchange cannot be admitted without permitting the French Government virtually to repeal our laws by means of their own internal regulations; and that, if the United States refuse to submit to an insidious policy, and some of our citizens suffer losses, it is against the French and not the American Government that their complaints ought to be directed.

I have the honor to be, with great respect, sir, your most obedient servant,

OLIVER WOLCOTT.

Hon. SAMUEL SMITH, Esq.

Chairman of the Committee of Commerce, &c.

[Communicated to the Senate, December 15, 1800.]

UNITED STATES, Dec. 15, 1800.

Gentlemen of the Senate:

I transmit to the Senate, for their consideration and decision, a convention both in English and French, between the United States of America and the French Republic, signed at Paris on the 13th day of September last, by the respective Plenipotentiaries of the two Powers. I also transmit to the Senate three manuscript volumes containing the journal of our Envoys.

JOHN ADAMS.

[The following Messages, with the accompanying documents, relating to the same subject, were also transmitted to the Senate.]

UNITED STATES, Dec. 22, 1800.

Gentlemen of the Senate:

In conformity with your request, in your resolution of the 19th of this month, I transmit you the instructions given to our late Envoys Extraordinary and Ministers Plenipotentiary to the French Republic.

It is my request to the Senate, that these instructions may be considered in strict confidence, and returned to me as soon as the Senate shall have made all the use of them they may judge necessary.

JOHN ADAMS.

UNITED STATES, Jan. 21, 1801.

Gentlemen of the Senate:

In compliance with your request, signified in your resolution of the 20th day of this month, I transmit you a report, made to me by the Secretary of State on the same day; a letter of our late Envoys to him of the 4th of October last; an extract of a letter from our Minister Plenipotentiary in London to him of the 22d of November last; and an extract of another letter from the Minister to the Secretary of the 31st of October last.

The reasoning in the letter of our late Envoys to France is so fully supported by the writers on the law of nations, particularly by *Vattel*, as well as by his great masters, *Grotius* and *Puffendorf*, that nothing is left to be desired to settle the point that, if there be a collision between two treaties, made with two different Powers, the more ancient has the advantage; for no engagement contrary to it can be entered into in the treaty afterwards made, and, if this last be found, in any case, incompatible with the more ancient one, its execution is considered as impossible, because the person promising had not the power of acting contrary to his antecedent engagement. Although our right is very clear to negotiate treaties according to our own ideas of right and justice, honor and good faith, yet it must always be a satisfaction to know, that the judgments of other nations, with whom we have connexion, coincide with ours, and that we have no reason to apprehend that any disagreeable questions and discussions are likely to arise. The letters from Mr. King will, therefore, be read by the Senate with particular satisfaction.

The inconveniences to public officers, and the mischiefs to the public, arising from the publication of the despatches of Ministers abroad are so numerous, and so obvious, that I request of the Senate that these papers, especially the letters from Mr. King, be considered in close confidence.

JOHN ADAMS.

Convention between the French Republic and the United States.

The Premier Consul of the French Republic, in the name of the people of France, and the President of the United States of America, equally desirous to terminate the differences which have arisen between the two States, have respectively appointed their Plenipotentiaries, and given them full powers to treat upon those differences and to terminate the same, that is to say: the Premier Consul of the French Republic, in the name of the people of France, has appointed for the Plenipotentiary of the said Republic, the citizens Joseph Bonaparte, ex-ambassador at Rome and Counsellor of State; Charles Pierre Claret Fleuriu, member of the National Institute, and of the Board of Longitude of France, and Counsellor of State, President of the Section of the Marine; and Pierre Louis Røderer, member of the National Institute of France, and Counsellor of State, President of the Section of the Interior. And the President of the United States of America, by and with the advice and consent of the Senate of the said States, has appointed for their Plenipotentiaries, Oliver Ellsworth, Chief Justice of the United States, William Richardson Davie, late Governor of the State of North Carolina, and William Vans Murray, Minister Resident of the United States at the Hague; who, after having exchanged their full powers, and after full and mature discussion of the respective interests, have agreed on the following articles:

ARTICLE 1. There shall be a firm, inviolable,

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and universal peace, and a true and sincere friendship between the French Republic and the United States of America, and between their respective countries, territories, cities, towns, and people, without exception of persons or places.

ART. 2. The Ministers Plenipotentiary of the two parties not being able to agree, at present, respecting the Treaty of Alliance of 6th February, 1778, the Treaty of Amity and Commerce of the same date, and the convention of the 14th of November, 1788, nor upon the indemnities mutually due or claimed; the parties will negotiate further on these subjects at a convenient time; and, until they may have agreed on these points, the said treaties and conventions shall have no operation, and the relations of the two countries shall be regulated as follows:

ART. 3. The public ships which have been taken on one part and the other, or which may be taken before the exchange of ratifications, shall be restored.

ART. 4. Property captured, and not yet definitively condemned, or which may be captured before the exchange of ratifications, (contraband goods destined to an enemy's port excepted,) shall be mutually restored, on the following proofs of ownership, viz: The proof on both sides with respect to merchant ships, whether armed or unarmed, shall be a passport in the form following: "*To all who shall see these presents, greeting:*

"It is hereby made known that leave and permission has been given to —, master and commander of the ship called —, of the town of —, burden — tons, or thereabouts, lying at present in the port and haven of —, and bound for —, and laden with —, after that his ship has been visited, and before the sailing, he shall make oath before the officers who have the jurisdiction of maritime affairs, that the said ship belongs to one or more of the subjects of —, the act whereof shall be put to the end of these presents, as likewise that he will keep, and cause to be kept by his crew on board, the marine ordinances and regulations, and enter in the proper office a list, signed and witnessed, containing the names and surnames, the places of birth, and abode of the crew of his ship, and of all who shall embark on board her, whom he shall not take on board without the knowledge and permission of the officers of the marine; and in every port or haven where he shall enter with his ship, he shall show this present leave to the officers and judges of the marine, and shall give a faithful account to them of what passed and was done during his voyage; and he shall carry the colors, arms, and ensigns of the French Republic, or the United States, during his voyage. In witness whereof, we have signed these presents, and put the seal of our arms thereunto, and caused the same to be countersigned — at —, the — day of —, anno Domini —."

And this passport will be sufficient without any other paper, any ordinance to the contrary notwithstanding; which passport shall not be deemed requisite to have been renewed or recalled, whatever number of voyages the said ship may have

made, unless she shall have returned home within the space of a year. Proof with respect to the cargo shall be certificates, containing the several particulars of the cargo, the place whence the ship sailed, and whither she is bound; so that the forbidden and contraband goods may be distinguished by the certificates, which certificates shall have been made out by the officers of the place whence the ship set sail, in the accustomed form of the country. And if such passport or certificates, or both, shall have been destroyed by accident, or taken away by force, their deficiency may be supplied by such other proofs of ownership as are admissible by the general usage of nations. Proof, with respect to other than merchant ships, shall be the commission they bear.

This article shall take effect from the date of the signature of the present convention. And if, from the date of the said signature, any property shall be condemned, contrary to the intent of the said convention, before the knowledge of this stipulation shall be obtained, the property so condemned shall, without delay, be restored or paid for.

ART. 5. The debts contracted by one of the two nations with individuals of the other, or by the individuals of one with the individuals of the other, shall be paid, or the payment may be prosecuted in the same manner as if there had been no misunderstanding between the two States. But this clause shall not extend to indemnities claimed on account of captures or confiscations.

ART. 6. Commerce between the parties shall be free. The vessels of the two nations, and their privateers, as well as their prizes, shall be treated in the respective ports as those of the nation the most favored; and, in general, the two parties shall enjoy in the ports of each other, in regard to commerce and navigation, the privileges of the most favored nation.

ART. 7. The citizens and inhabitants of the United States shall be at liberty to dispose, by testament, donation, or otherwise, of their goods, moveable and immoveable, holden in the territory of the French Republic in Europe, and the citizens of the French Republic shall have the same liberty with regard to goods, moveable and immoveable, holden in the territory of the United States, in favor of such persons as they shall think proper. The citizens and inhabitants of either of the two countries, who shall be heirs of goods, moveable or immoveable, in the other, shall be able to succeed *ab intestato*, without being obliged to obtain letters of naturalization, and without having the effect of this provision contested or impeded, under any pretext whatever; and the said heirs, whether such by particular title, or *ab intestato*, shall be exempt from every duty whatever, in both countries. It is agreed that this article shall in no manner derogate from the laws which either State may now have in force, or hereafter may enact, to prevent emigration; and, also, that, in case the laws of either of the two States should restrain strangers from the exercise of the rights of property with respect to real estate, such real estate may be sold, or otherwise disposed of, to citizens or inhabitants of the coun-

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try where it may be, and the other nation shall be at liberty to enact similar laws.

ART. 8. To favor commerce on both sides, it is agreed that, in case war should break out between the two nations, (which God forbid,) the term of six months after the declaration of war shall be allowed to the merchants, and other citizens and inhabitants, respectively, on one side and the other, during which time they shall be at liberty to withdraw themselves, with their effects and moveables, which they shall be at liberty to carry, send away, or sell, as they please, without the least obstruction; nor shall their effects, much less their persons, be seized during such term of six months; on the contrary, passports, which shall be valid for a time necessary for their return, shall be given to them for their vessels and the effects which they shall be willing to send away or carry with them; and such passports shall be a safe conduct against all insults and prizes which privateers may attempt against their persons and effects. And if anything be taken from them, or any injury done to them, or their effects, by one of the parties, their citizens, or inhabitants, within the term above prescribed, full satisfaction shall be made to them on that account.

ART. 9. Neither the debts due from the individuals of the one nation to the individuals of the other, nor shares, nor moneys which they may have in public funds, or the public or private banks, shall ever, in any event of war or national difference, be sequestered or confiscated.

ART. 10. It shall be free for the two contracting parties to appoint commercial agents for the protection of trade, to reside in France and the United States. Either party may except such place as may be thought proper from the residence of these agents. Before any agent shall exercise his functions, he shall be accepted in the usual forms by the party to whom he is sent; and when he shall have been accepted and furnished with his *exequatur*, he shall enjoy the rights and prerogatives of the similar agents of the most favored nations.

ART. 11. The citizens of the French Republic shall pay in the ports, havens, roads, countries, islands, cities, and towns of the United States, no other, or greater duties or imposts, of what nature soever they may be, or by what name soever called, than those which the nations most favored are, or shall be obliged to pay, and they shall enjoy all the rights, liberties, privileges, immunities, and exemptions in trade, navigation, and commerce, whether in passing from one port in the said States to another, or in going to and from the same from and to any part of the world, which the said nations do, or shall enjoy. And the citizens of the United States shall reciprocally enjoy in the territories of the French Republic in Europe, the same privileges and immunities, as well for their property and persons, and for what concerns trade, navigation, and commerce.

ART. 12. It shall be lawful for the citizens of either country to sail with their ships and merchandise (contraband goods always excepted) from any port whatever to any port of the enemy of

the other, and to sail and trade with their ships and merchandise, with perfect security and liberty, from the countries, ports, and places of those who are enemies of both, or of either party, without any opposition or disturbance whatsoever, and to pass not only directly from the places and ports of the enemy aforementioned, to neutral ports and places, but also from one place belonging to an enemy, to another place belonging to an enemy, whether they be under the jurisdiction of the same Power, or under several; unless such ports or places shall be actually blockaded, besieged, or invested.

And whereas it frequently happens that vessels sail for a port or place belonging to an enemy, without knowing that the same is either besieged, blockaded, or invested, it is agreed that every vessel so circumstanced, may be turned away from such port or place, but she shall not be detained, nor any part of her cargo, if not contraband, be confiscated, unless, after notice of such blockade or investment, she shall again attempt to enter; but she shall be permitted to go to any other port or place she shall think proper. Nor shall any vessel of either, that may have entered into such port or place before the same was actually besieged, blockaded, or invested by the other, be restrained from quitting such place with her cargo, nor if found therein after the reduction and surrender of such place, shall such vessel or her cargo be liable to confiscation, but they shall be restored to the owners thereof.

ART. 13. In order to regulate what shall be deemed contraband of war, there shall be comprised, under that denomination, gunpowder, saltpetre, petards, match, ball, bombs, grenades, carcasses, pikes, halberds, swords, belts, pistols, holsters, cavalry saddles and furniture, cannon, mortars, their carriages and beds, and generally all kinds of arms, ammunition of war, and instruments fit for the use of troops; all the above articles, whenever they are destined to the port of an enemy, are hereby declared to be contraband, and are just objects of confiscation; but the vessel in which they are laden, and the residue of the cargo, shall be considered free, and not in any manner infected by the prohibited goods, whether belonging to the same, or a different owner.

ART. 14. It is hereby stipulated that free ships shall give a freedom to goods, and that everything shall be deemed to be free and exempt which shall be found on board the ships belonging to the citizens of either of the contracting parties, although the whole lading, or any part thereof, should appertain to the enemies of either, contraband goods being always excepted. It is also agreed, in like manner, that the same liberty be extended to persons who are on board a free ship, with this effect: that, although they be enemies to either party, they are not to be taken out of that free ship, unless they are soldiers and in actual service of the enemy.

ART. 15. On the contrary, it is agreed that whatever shall be found to be laden by the citizens of either party on any ship belonging to the enemies of the other, or their citizens, shall be con-

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fiscated without distinction of goods, contraband or not contraband, in the same manner as if it belonged to the enemy, except such goods and merchandises as were put on board such ship before the declaration of war, or even after such declaration, if so be it were done without knowledge of such declaration; so that the goods of the citizens of either party, whether they be of the nature of such as are prohibited or otherwise, which, as is aforesaid, were put on board any ship belonging to an enemy before the war, or after the declaration of the same, without the knowledge of it, shall no ways be liable to confiscation, but shall well and truly be restored without delay to the proprietors demanding the same: but so as that if the said merchandises be contraband, it shall not be in any way lawful to carry them afterwards to any ports belonging to the enemy.

The two contracting parties agree, that the term of two months being passed after the declaration of war, their respective citizens, from whatever part of the world they come, shall not plead the ignorance mentioned in this article.

ART. 16. The merchant ships belonging to the citizens of either of the contracting parties, which shall be bound to a port of the enemy of one of the parties, and concerning whose voyage, and articles of their cargo, there shall be just grounds of suspicion, shall be obliged to exhibit, as well upon the high seas as in the ports or roads, not only their passports, but likewise their certificates, showing that their goods are not of the quality of those which are specified to be contraband in the thirteenth article of the present convention.

ART. 17. And that captures on light suspicions may be avoided, and injuries thence arising prevented, it is agreed, that if one party shall be engaged in war, and the other party be neuter, the ships of the neutral party shall be furnished with passports similar to that described in the fourth article, that it may appear thereby that the ships really belong to the citizens of the neutral party; that they shall be valid for any number of voyages, but shall be renewed every year, that is, if the ship happens to return home in the space of a year. If the ships are laden, they shall be provided, not only with the passports above mentioned, but also with certificates similar to those described in the same article; so that it may be known whether they carry any contraband goods. No other paper shall be required, any usage or ordinance to the contrary notwithstanding. And if it shall not appear from the said certificates that there are contraband goods on board, the ships shall be permitted to proceed on their voyage. If it shall appear from the certificates that there are contraband goods on board any such ship, and the commander of the same shall offer to deliver them up, the offer shall be accepted, and the ship shall be at liberty to pursue its voyage, unless the quantity of contraband goods be greater than can conveniently be received on board the ship of war or privateer; in which case the ship may be carried into port for the delivery of the same.

If any ship shall not be furnished with such pass-

port or certificates as above required for the same, such case may be examined by a proper judge or tribunal; and if it shall appear, from other documents or proofs admissible by the usage of nations, that the ship belongs to the citizens of the neutral party, it shall not be confiscated, but shall be released with her cargo, (contraband goods excepted,) and be permitted to proceed on her voyage.

If the master of a ship named in the passport should happen to die, or be removed by any other cause, and another put in his place, the ship and cargo shall, nevertheless, be equally secure, and the passport remain in full force.

ART. 18. If the ships of the citizens of either of the parties shall be met with, either sailing along the coasts or on the high seas, by any ship of war or privateer of the other; for the avoiding of any disorder, the said ships of war or privateers shall remain out of cannon shot, and may send their boats on board the merchant ship which they shall so meet with, and may enter her to the number of two or three men only, to whom the master or commander of such ship shall exhibit his passport concerning the property of the ship, made out according to the form prescribed in the fourth article. And it is expressly agreed that the neutral party shall in no case be required to go on board the examining vessel for the purpose of exhibiting his papers, or for any other examination whatever.

ART. 19. It is expressly agreed by the contracting parties, that the stipulations above mentioned, relative to the conduct to be observed on the sea by the cruisers of the belligerent party towards the ships of the neutral party, shall be applied only to ships sailing without convoy; and, when the said ships shall be convoyed, it being the intention of the parties to observe all the regard due to the protection of the flag displayed by public ships, it shall not be lawful to visit them: but the verbal declaration of the commander of the convoy, that the ships he convoys belong to the nation whose flag he carries, and that they have no contraband goods on board, shall be considered by the respective cruisers as fully sufficient: the two parties reciprocally engaging not to admit, under the protection of their convoys, ships which shall carry contraband goods destined to an enemy.

ART. 20. In all cases where vessels shall be captured or detained under pretence of carrying to the enemy contraband goods, the captor shall give a receipt for such of the papers of the vessel as he shall retain, which receipt shall be annexed to a descriptive list of the said papers: and it shall be unlawful to break up or open the hatches, chests, trunks, casks, bales, or vessels found on board, or remove the smallest part of the goods, unless the lading be brought on shore in presence of the competent officers, and an inventory be made by them of the said goods. Nor shall it be lawful to sell, exchange, or alienate the same in any manner, unless there shall have been lawful process, and the competent judge or judges shall have pronounced against such goods sentence of confiscation, saving always the ship and the other goods which it contains.

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ART. 21. And, that proper care may be taken of the vessel and cargo, and embezzlement prevented, it is agreed, that it shall not be lawful to remove the master, commander, or supercargo of any captured ship, from on board thereof; either during the time the ship may be at sea after her capture, or pending the proceedings against her, or her cargo, or anything relative thereto. And, in all cases where a vessel of the citizens of either party shall be captured or seized, and held for adjudication, her officers, passengers, and crew, shall be hospitably treated. They shall not be imprisoned or deprived of any part of their wearing apparel, nor of the possession and use of their money, not exceeding for the captain, supercargo, and mate, five hundred dollars each, and for the sailors and passengers, one hundred dollars each.

ART. 22. It is further agreed, that in all cases the established courts for prize causes, in the country to which the prizes may be conducted, shall alone take cognizance of them. And whenever such tribunal of either of the parties shall pronounce judgment against any vessel or goods or property claimed by the citizens of the other party, the sentence or decree shall mention the reasons or motives on which the same shall have been founded, and an authenticated copy of the sentence or decree, and of all the proceedings in the case, shall, if demanded, be delivered to the commander or agent of the said vessel, without any delay, he paying the legal fees for the same.

ART. 23. And that more abundant care may be taken for the security of the respective citizens of the contracting parties, and to prevent their suffering injuries by the men of war, or privateers of either party, all commanders of ships of war and privateers, and all others the said citizens, shall forbear doing any damage to those of the other party, or committing any outrage against them; and if they act to the contrary, they shall be punished, and shall also be bound in their persons and estates to make satisfaction and reparation for all damages, and the interest thereof, of whatever nature the said damages may be.

For this cause, all commanders of privateers, before they receive their commissions, shall hereafter be obliged to give, before a competent judge, sufficient security by at least two responsible sureties, who have no interest in the said privateer, each of whom, together with the said commander, shall be jointly and severally bound in the sum of seven thousand dollars, or thirty-six thousand eight hundred and twenty francs; or, if such ships be provided with above one hundred and fifty seamen or soldiers, in the sum of fourteen thousand dollars, or seventy-three thousand six hundred and forty francs; to satisfy all damages and injuries which the said privateer, or her officers or men, or any of them, may do or commit during their cruise, contrary to the tenor of this convention, or to the laws and instructions for regulating their conduct; and further, that in all cases of aggressions, the said commissions shall be revoked and annulled.

ART. 24. When the ships of war of the two contracting parties, or those belonging to their citizens which are armed in war, shall be admitted to enter with their prizes, the ports of either of the two parties, the said public or private ships, as well as their prizes, shall not be obliged to pay any duty either to the officers of the place, the judges, or any others; nor shall such prizes, when they come to and enter the ports of either party, be arrested or seized: nor shall the officers of the place make examination concerning the lawfulness of such prizes; but they may hoist sail at any time, and depart, and carry their prizes to the places expressed in their commissions, which the commanders of such ships of war shall be obliged to show. It is always understood that the stipulations of this article shall not extend beyond the privileges of the most favored nation.

ART. 25. It shall not be lawful for any foreign privateers who have commissions from any Prince or State in enmity with either nation, to fit their ships in the ports of either nation, to sell their prizes, or in any manner to exchange them; neither shall they be allowed to purchase provisions, except such as shall be necessary for their going to the next port of that Prince or State, from which they have received their commissions.

ART. 26. It is further agreed, that both the said contracting parties shall not only refuse to receive any pirates into any of their ports, havens, or towns, or permit any of their inhabitants to receive, protect, harbor, conceal, or assist them in any manner, but will bring to condign punishment all such inhabitants as shall be guilty of such acts or offences. And all their ships, with the goods or merchandises taken by them and brought into the port of either of the said parties, shall be seized, as far as they can be discovered, and shall be restored to the owners, or their factors, or agents, duly authorized by them, (proper evidence being first given before competent judges for proving the property;) even in case such effects should have passed into other hands by sale, if it be proved that the buyers knew, or had good reason to believe or suspect that they had been piratically taken.

ART. 27. Neither party will intermeddle in the fisheries of the other on its coasts, nor disturb the other in the exercise of the rights which it now holds, or may acquire on the coast of Newfoundland, in the Gulf of St. Lawrence, or elsewhere on the American coast, northward of the United States. But the whale and seal fisheries shall be free to both in every quarter of the world.

This Convention shall be ratified on both sides in due form, and the ratifications exchanged in the space of six months, or sooner, if possible.

In faith whereof, the respective Plenipotentiaries have signed the above articles both in the French and English languages, and they have thereto affixed their seals; declaring, nevertheless, that the signing in the two languages shall not be brought into precedent nor in any way operate to the prejudice of either party.

Done at Paris, the eighth day of Vendemiaire, of the ninth year of the French Republic, the thir-

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tieth day of September, Anno Domini eighteen hundred.

JOSEPH BONAPARTE,
OLIVER ELLSWORTH,
CHARLES P. C. FLEURIEU,
WILLIAM R. DAVIE,
PIERRE LOUIS RØDERER,
WILLIAM V. MURRAY.

Journal of the Envoys.

Journal of Oliver Ellsworth, William R. Davie, and William Vans Murray, Envoys Extraordinary and Ministers Plenipotentiary to the Court of France, containing their correspondence and negotiations from the 17th of January, 1800, to the 3d of October in the same year; and terminating in the Convention with France, of the 30th September, 1800.

OCTOBER 16.

The following letter from the Secretary of State, with its enclosure, was delivered to Mr. Ellsworth and Mr. Davie, at Trenton.

DEPARTMENT OF STATE,
Trenton, Oct. 16, 1799.

SIR: To fulfil the President's orders, and to convey correctly to you and — his sentiments towards you, and his determination respecting your mission as Envoys Extraordinary to the French Republic, I enclose a copy of his letter to me of this date; and have the honor to be, with great respect, your obedient servant,

TIMOTHY PICKERING.

—
TRENTON, Oct. 16, 1799.

SIR: I request you to order fair copies of the instructions, as corrected last evening, to be prepared and delivered to Judge Ellsworth and Governor Davie, with another for Mr. Murray, without loss of time; and to write a letter to those gentlemen as Envoys Extraordinary to the French Republic, expressing, with the affectionate respects of the President, his desire that they would take their passage for France, on board the frigate United States, Captain Barry, now lying at Rhode Island, by the 1st of November, or sooner, if consistent with their conveniences. Captain Barry will have orders to land them in any port of France which they may prefer, and to touch at any other ports which they may desire. The President's best wishes for their health and happiness, as well as for an honorable termination of their mission, will attend them. As their visit to France is one of the most critical, important, and interesting moments that ever has occurred, it cannot fail to be highly entertaining and instructive to them, and useful to their country, whether it terminate in peace and reconciliation or not. The President sincerely prays God to have them in his holy keeping.

I am, sir, with great respect and esteem, your faithful humble servant,

JOHN ADAMS.

T. PICKERING, Esq., *Secretary of State.*

The following are the instructions above referred to.

Instructions to Oliver Ellsworth, William Richardson Davie, and William Vans Murray, Esquires, Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the French Republic.

GENTLEMEN: You have been witnesses of the enduring patience of the United States, under the unexampled aggressions, depredations, and hostilities, authorized and sanctioned by the French Republic against the commerce and citizens of the United States; and you are well informed of the measures adopted by our Government to put a stop to these evils, to obtain redress for the injured, and real peace and security to our country. And you know that, instead of relief, instead of justice for past wrongs, our very moderate demands have been immediately followed by new aggressions and more extended depredations; while our Ministers, seeking redress and reconciliation, have been refused a reception, treated with indignities, and finally driven from its territories.

This conduct of the French Republic would well have justified an immediate declaration of war on the part of the United States; but desirous of maintaining peace, and willing to leave open the door of reconciliation with France, the United States contented themselves with preparations for defence, and measures calculated to protect their commerce.

The treatment experienced by the former Envoys of the United States to the French Republic, having determined the President not to send thither other Ministers, without direct and unequivocal assurances previously signified by its Minister of Foreign Relations, that they would be received in character to an audience of the Directory, and that they should enjoy all the prerogatives attached to that character by the law of nations, and that a Minister or Ministers of equal powers should be appointed and commissioned to treat with them: the French Government, by Mr. Talleyrand, its Minister of Foreign Relations, has declared, "that it will receive the Envoys of the United States in the official character with which they are invested; and that they shall enjoy all the prerogatives attached to it by the law of nations; and that one or more Ministers shall be duly authorized to treat with them." This the President deems to be substantially the assurance which he required as the previous condition of the Envoys entering on their mission. It now belongs to you, gentlemen, to see that this assurance be verified. Your country will not submit to any new indignity or neglect. It is expected, when you shall have assembled at Paris, and have given official notice of it to the Minister of Foreign Relations, that you will be received to an audience of the Executive Directory; that a Minister or Ministers, with powers equal to your own, will be appointed to treat with you; and that within twenty days at furthest, after your arrival at Paris, your negotiation will be commenced. If, however, your passports to Paris should be unreasonably withheld; if an audience of the Directory should be denied or procrastinated; if the appoint-

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ment of a Minister or Ministers, with equal powers, to treat with you, should be delayed; or, if, when appointed, they postpone the intended negotiation; you are to relinquish your mission, demand your passports, and leave France; and, having once resolved to terminate the mission, you are not to resume it, whatever fresh overtures or assurances may be tendered to you by the French Government.

One more limitation: The subjects of difference between the United States and France have often been discussed and are well understood; and, therefore, admit of a speedy decision. The negotiation is expected to be concluded in such time that you may certainly embark for the United States by the 1st of next April. This is highly important, in order that on your return Congress may be found in session, to take those measures which the result of your mission shall require. If it can be earlier concluded it will be still better.

If any of the periods above mentioned should be prolonged with your assent, it is expected that the circumstances will be stated for your justification.

I. At the opening of the negotiation you will inform the French Ministers, that the United States expect from France, as an indispensable condition of the treaty, a stipulation to make to the citizens of the United States full compensation for all losses and damages which they shall have sustained, by reason of irregular or illegal captures or condemnations of their vessels and other property, under color of authority or commissions from the French Republic or its agents. And all captures and condemnations are deemed irregular or illegal, when contrary to the law of nations generally received and acknowledged in Europe, and to the stipulations in the Treaty of Amity and Commerce, of the 6th of February, 1778, fairly and ingeniously interpreted, while that treaty remained in force; especially when made and pronounced.

1. Because the vessels' lading, or any part thereof, consisted of provisions or merchandise coming from England or her possessions.

2. Because the vessels were not provided with the *rôles d'équipage* prescribed by the laws of France; and which, it has been pretended, were also required by treaty.

3. Because sea letters or other papers were wanting, or said to be wanting when the property shall have been, or shall be, admitted or proved to be American. Such defect of papers, though it might justify the captors and exempt them from damages, for bringing in such vessels for examination, could not, with reason, be a ground of condemnation.

4. When the owners, masters, or supercargoes shall have been refused a hearing, or placed in situations rendering their presence at the trial impracticable.

5. When the vessels or other property captured shall have been sold, or otherwise disposed of, without a regular trial and condemnation.

Captures and condemnations for such causes, and under such circumstances, are manifestly irregular or illegal.

The French Government, if it has any serious wish to accommodate existing differences, can make no difficulty in admitting the general proposition, that, for injuries arising from violated laws and engagements, reparation shall be made. In every claim under this general stipulation, the question will occur, Has the treaty, or the law of nations, been violated?

But such a general stipulation will not be sufficient. The five specific propositions just stated are obviously proper rules of adjudication; but the previous admission of the first and second is vastly important, to remove from hazard the most interesting claims of our citizens.

To capture neutral property, because it was produced or manufactured in the country of an enemy to France, is so palpably unjust, that it seems improbable that even the men who originated the law, were they still in power, would persist in it as of right; and it is scarcely possible for their successors to hesitate on this point. To hesitate would be to doubt whether a man has a right to occupy his own house, or to wear his own clothes, unless he had built the first, or manufactured the last, with his own hands.

The second proposition respecting the *rôle d'équipage*, as well as the first, should be insisted on. Until the decree of the Directory of March 2, 1797, was passed, and we had felt its fatal effects, we had no idea of the meaning which the French applied to the phrase *rôle d'équipage*. In the Consular Convention between the United States and France, article ninth, which relates to deserters from vessels, the document is described in the French by the words "*des registres du bâtiment ou rôle d'équipage*," and in the English part of the Convention by the words "the registers of the vessel or ship's rolls." And this paper was to be produced to the proper judge, to prove a deserter to belong to the vessel in question. The law or usage of each nation was incontestably to direct what was proper for its own vessels in this respect. If an American master claimed from a judge in France his warrant to arrest a deserter, he must have produced his "ship's roll," or what in the United States is called his shipping paper, which is a contract signed by all the persons composing a vessel's crew. The propriety and necessity of a ship's roll was, in the year 1790, sanctioned and enforced by an act of Congress; and, without such a written contract, the master, besides being subjected to other disadvantages, could not claim his men when they deserted. This ship's roll every American master, bound on a foreign voyage, takes on board his vessel; and, unquestionably every American vessel, captured and condemned by the French for the want of a *rôle d'équipage*, has, nevertheless, been possessed of the ship's roll, just described; and it is the only list of the ship's crew, which could ever have been contemplated by the United States, as necessary for American vessels. There never was, indeed, any intimation on the part of France, from 1778, when the Treaty of Amity and Commerce was made, until the passing of the decree of the Directory, in March, 1797, that a *rôle d'équipage*, other than the ship's

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roll, or shipping paper, would be required. It was then suddenly demanded; and the decree (like the law of January, 1798, respecting articles of the produce or manufacture of Great Britain,) was instantly enforced, and became a snare to the multitudes of American vessels, which, for want of previous notice, would not have on board the document in question, if their Government should permit them to receive a document which they were under no obligation to produce. For it cannot, with any semblance of justice, be pretended that the vessels of one nation are bound to furnish themselves with papers in forms prescribed by the laws of another. And if we resort to the treaty of 1778, or to the sea-letter or passport annexed to it, on which letter the Directory pretended to found their decree concerning the *rôle d'équipage*, we shall see that these words are not to be found in either; and, although the passport mentions "a list signed and witnessed, containing the names, surnames, the places of birth, and abode of the crew of his [the neutral master's] ship, and of all who shall embark on board her, whom he shall not take on board without the knowledge and permission of the officers of the marine;" yet, instead of being obliged "to have the list on board," the passport declares, that "he shall enter it in the proper office;" and all that the treaty requires him to exhibit at sea is the sea-letter, or passport. In a word, whatever is said about the *rôle d'équipage*, in the French application of the phrase, has relation to the laws and usages of France. It was to be exhibited to the officers of the marine; but the United States have not, nor ever had, like France, any such description of officers, employed in the examination and clearing of vessels and their crews, prior to their going to sea; and the Directory, if they had wanted pretences for despoiling our commerce, might as well have made the omission of appointing marine officers in our ports, to whom, according to the letter of the passport, the *rôle d'équipage* was to be exhibited, a cause of capture and condemnation, as the omitting to furnish them with *rôles d'équipage* in the French form. In preparing, in 1793, the sea-letter for American vessels, the Secretary of State, Mr. Jefferson, changed, in divers places, the letter of the passport, substituting other words applicable to us; and for "officers of the marine," "officers and judges of the marine," which words were descriptive of French institutions, using only the phrase "proper officers," in conformity with our own. In the same manner, the "ship's roll," or shipping paper of the United States, if at all required, should have been respected by France, as her *rôle d'équipage* would have been respected by the United States. And, after all, what was the real object of the sea-letter, (in which alone there is any reference to a list of the crew,) and what was it substantially to express? The twenty-fifth article of the treaty of 1778 informs us, "in case either of the parties should be engaged in war, the ships and vessels belonging to the subjects or people of the other ally, must be furnished with sea-letters or passports, expressing the name, property, and bulk of the ship, as also the name and habita-

tion of the master or commander of the said ship, "that it may appear thereby that the ship really and truly belongs to the subjects of one of the parties;" and with this further view, "that all manner of dissensions and quarrels might be avoided and prevented;" for, as was declared in the twenty-seventh article, when a ship of the party remaining neutral, met with by a ship of the other party, had shown her sea-letter or passport, she was to "be free and at liberty to pursue her voyage, so as it should not be lawful to molest or search her in any manner, or to give her chase, or force her to quit her intended course."

It also merits observation, that, according to the tenor of the sea-letter or passport, in every port or haven where he (the neutral master) should enter with his ship, he is required to show, not a *rôle d'équipage*, but his passport. Yet this passport, made and intended by the Governments of France and the United States, in 1778, to facilitate and protect their commerce, to exempt it from vexations, and to prevent dissensions and quarrels, has, by the Government of France, been converted into a fatal snare, an engine of mischief, producing quarrels, dissensions, vexations, and, to the commerce of many American citizens, absolute destruction.

II. If these preliminaries should be satisfactorily arranged, then, for the purpose of examining and adjusting all the claims of our citizens, it will be necessary to provide for the appointment of a Board of Commissioners similar to that described in the sixth and seventh articles of the Treaty of Amity and Commerce between the United States and Great Britain.

The Commissioners of the two nations may first meet at Paris. In choosing the fifth Commissioner, they will have a right to propose a Frenchman or an American. But it might conduce to more satisfactory results if the fifth Commissioner were a foreign civilian, eminent for his learning, talents, and integrity.

Three of the Commissioners may constitute a board, provided one named on each side and the fifth Commissioner be present. The four Commissioners, in the absence of the fifth, may also constitute a board; and, in each case, the decisions of a majority are to be valid. But, when on any questions, the four Commissioners, in the absence of the fifth, shall be equally divided, such questions are to be re-examined and decided in the presence of the fifth Commissioner. Further, in absence of the fifth Commissioner, any three of the other Commissioners may constitute a Board, and their decisions valid in cases where they are unanimous.

The salaries of the Commissioners, the expense attending the commission, and the supplying of vacancies in it, may be regulated in the manner proposed in the eighth article of our Treaty of Amity and Commerce with Great Britain.

The Commissioners should be appointed and meet at Paris, within six months after the ratifications of the treaty by the respective Governments, and as much sooner as may be.

Claims may be presented to the Board during

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two years, commencing with the day on which the Commissioners shall first assemble to proceed to business; and, in particular cases, in which it shall appear to them reasonable and just, they may extend the time of receiving claims to any reasonable term after the expiration of the two years.

All sums which the Board may award to American claimants, France should stipulate to pay in gold and silver, without any deduction, at such place or places, and at such time or times, as the Commissioners shall appoint. The awards should comprehend a reasonable allowance of interest on the amount of the original losses and damages, or, instead of prompt payment, the whole may constitute a transferable capital, bearing interest until the debt be discharged.

The Board should also take cognizance of the claims which may be presented to them by American citizens for merchandise, or other property, seized by the French in their own ports or elsewhere, and not comprehended under the head of captures; and for their vessels arbitrarily and unreasonably detained in French ports, and for the losses and damages thereby sustained, the Board should award equitable compensations, to be paid in the manner prescribed in the case of captures.

The claims of the United States, as distinguished from those of their citizens, for injuries received from the French Republic, or its citizens, should be submitted to the same Board; and whatever sums they award, France should stipulate to pay, in the manner before mentioned, in the case of captures.

As the French Government have heretofore complained of infringements of the Treaty of Amity and Commerce by the United States, or their citizens, all claims for injuries thereby occasioned to France, or its citizens, are to be submitted to the same board; and whatever damages they award, will be allowed by the United States, and deducted from the sums awarded to be paid by France.

If, however, the French Government should desire to waive its national claims, you may do the like on the part of the United States. Doubtless the claims of the latter would exceed those of the former; but, to avoid multiplying subjects of dispute, and because *national* claims may probably be less definite than those of *individuals*, and consequently more difficult to adjust, national claims may, on both sides, be relinquished.

All claims for sums due to American citizens, by contracts with the French Government or its agents, which may be presented to the Board, France should stipulate to pay within the shortest periods possible to obtain, with interest, at the rate or rates agreed on; or, if no agreement about interest appears, then at the rate to be fixed by the Board, and from the times when the sums were respectively payable by contract. This also may be transferable stock.

The questions about interest, and any other questions which may arise out of the claims founded on contracts, not explicitly determined by the treaty, may be left to the decision of the Board of Commissioners.

III. If the preceding claims shall be duly attended to, and adequate arrangements made for adjusting and satisfying them, you will then turn your thoughts to the regulation of navigation and commerce, and to some other points interesting to the two nations.

IV. It may be stipulated that there shall be a reciprocal and entirely perfect liberty of commerce and navigation between France and the United States, and their territories and dominions, in every part of the world; but without admitting the vessels of either country into the rivers of the other beyond the highest ports of entry from the sea.

With the usual policy of European nations, France may object to the free admission of American vessels into the ports of her colonies. But the singular injuries our commerce has sustained from France, during the present war, which no payments to be made by her, under the preceding stipulations, can ever fully compensate, plead for an entire liberty of trade with her colonies, at least during the term of the proposed treaty, and until the stipulated compensations shall actually have been made. Another reason will naturally operate in favor of this claim; the inability of France immediately to furnish the requisite navigation and supplies for the commerce of her distant possessions.

But if France will not allow us a trade with her colonies on the terms which may be agreed in respect to the parent State, we should be silent on the subject. The commerce of all our territories will be open to France; that of all her dominions should be alike open to us. At any rate, it appears inexpedient for the United States to countenance injurious distinctions respecting colonial commerce, to obtain a share in it by agreeing to allow a price for it in the payment of extra duties. Neither ought we to stipulate anything like what is contained in the last clause of the third article of our treaty with the United Netherlands. Such an engagement would be a species of guaranty of the colony system. It is sufficient for the United States to treat foreign nations with justice and friendship.

V. It may be stipulated that no other or higher duties shall be paid by the ships or merchandise of one party in the ports of the other, than such as are or shall be payable by the like vessels or merchandise of all other nations; that no other or higher duties shall be imposed in one country on the importation of any articles which are the growth, produce, or manufacture of the other than are or shall be payable on the importation of the like articles being of the growth, produce, or manufacture of any other foreign country; and that no prohibition shall be imposed on the exportation or importation of any articles from or to the territories of the two parties, respectively, which shall not equally extend to all other nations.

And for the information of their respective fellow-citizens, and to prevent abuses, it may be stipulated that the Consuls of each nation shall be officially furnished in the other with tariffs of all imposts, customs, duties, and charges; by which

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tariffs the demands of the officers of each nation may be respectively limited.

VI. The freedom of navigation and commerce here proposed will require the admission of the citizens of the two countries respectively into the dominions of the other, with liberty to reside there, to hire and possess houses and warehouses for the purposes of their commerce, and complete protection and security for the merchants and traders on each side, with their property, whether in going to, residing in, or returning from, the country of the other. Nor should they be liable to any tax on their persons or property, to which the natives are not equally subject. They should be at liberty to manage their own affairs, without being obliged to employ any factor, broker, or interpreter, or any persons to load or unload their vessels; with a right, however, to employ any or all of them, as well as advocates and attorneys, at their pleasure.

VII. The merchants and others of one nation residing in the other, should have liberty to dispose of their property by testament, or otherwise, including real estates already acquired; and, if dying intestate, their heirs should enjoy the right of succession. Provided that, if the laws of either country should at the time be incompatible with such transfer or inheritance of real estates by aliens, they may be sold or otherwise disposed of to citizens of the two countries respectively. The citizens of the United States should not, in respect to their property, be considered as *aubains* in France; and, consequently, should be exempted from the *droit d'aubain*, or other similar duty.

VIII. The mutual residence of citizens of the two nations in the countries of each other necessarily requires the free exercise of religion, at least in their own houses, and in their own way; and permission to bury the dead in convenient places.

IX. If debtors flee from one country to the other, the creditors should be allowed to pursue them, and have the benefit of the laws of the country to which they flee, in the same manner as if the debts had been there contracted.

X. Neither the debts due from individuals of the one nation to the individuals of the other, nor shares nor moneys which they may have in the public funds, or in the public or private banks, should ever, in any event of war or national differences, be sequestered or confiscated.

XI. The ships of the citizens of the respective countries coming upon any coasts belonging to either, but not willing to enter into port; or, being entered into port, and not willing to unload their cargoes or break bulk; they should be treated according to the general rules prescribed, or to be prescribed, relative to the object in question.*

XII. Neither party should permit the ships or goods belonging to the citizens of the other to be taken within cannon shot of the coast, nor elsewhere within their jurisdiction, by ships of war or others having commission from any Prince, Republic, or State whatever. But if such capture

or other injury should happen, the party whose territorial rights are thus violated should use his utmost endeavors to obtain from the offending party full and ample satisfaction for the capture or other injury so committed. The just freedom of commerce, and the interest and dignity of the neutral nation, demand the protection of all vessels entering its ports, not only from being taken, but from being pursued within its jurisdiction, or immediately after their departure from its ports; therefore, their enemy, finding an asylum in those ports, should not be permitted to leave the same until the lapse of twenty-four hours after such departure.

XIII. No asylum should be given to pirates; vessels and property rescued from their hands should be restored to the proper owners; the pirates, and any who conceal or assist them, should be brought to condign punishment; all with the precautions customary in such cases.

XIV. The ships of war and other public vessels of each party should at all times be hospitably received in the ports of the other; their officers and crews paying due respect to the laws and government of the country.

XV. In case the citizens of either party with their private shipping, armed or unarmed, be forced through stress of weather, pursuit of pirates or enemies, or any other urgent necessity, to seek for shelter in the ports of the other, they should be received and treated with humanity, and enjoy all friendly protection and assistance.

XVI. In the case of vessels wrecked, foundered, or otherwise damaged, they should receive in each country the same protection and assistance as if they belonged to the inhabitants of the country on whose coasts the misfortune should happen.

XVII. Each party may appoint Consuls for the protection of trade, to reside in the dominions and territories of the other, including colonies as well as the mother country: for wherever trade is permitted, there the assistance and protection of Consuls is necessary. If a Consul be sent to a colony, his provisional admission by the colonial government might suffice until the pleasure of the national government should be known. The Consuls may enjoy the rights and liberties which belong to them by the law of nations.

XVIII. Deserters from public and private vessels should be delivered up, and the laws of each country make suitable provision for that purpose. The merchants and commanders of vessels, public and private, of one nation, in the country of the other, may engage and receive on board seamen or others, natives or inhabitants of the country to which the vessels belong: Provided that, either on one side or the other, they may not take into their service such of their countrymen (not deserters) who have already engaged in the service of the other party, whether in war or trade, and whether they meet them by land or sea; at least if the captains or masters under whose command such persons may be found, will not voluntarily discharge them from their service. Not only the original enlistment, shipping paper, or *rôle d'équipage*, but a copy, duly certified by a

* See section 60, new collection law.

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judge of the country, may be admitted in proof of desertion.

XIX. It may be agreed, that, on mutual requisitions by the respective Ministers or Consuls of the two nations, persons charged with murder or forgery committed within the territorial jurisdiction of one, and fleeing to the other, shall be delivered up.

XX. It may be agreed that neither party shall intermeddle in the common fisheries on the coasts of the other party, nor disturb the other party in the exercise of the rights which either now holds, or may acquire, of fishing on the banks of Newfoundland, in the Gulf of St. Lawrence, or elsewhere on the American coast northward of the United States of America: but that the whale and seal fisheries may be freely exercised in every quarter of the world.

XXI. The seventh and twenty-second articles of the Commercial Treaty between the United States and France, of February 6, 1778, have been the source of much altercation between the two nations during the present war. The dissolution of that and our other treaties with France leaves us at liberty with respect to future arrangements; with the exception of the now preferable right secured to Great Britain by the twenty-fifth article of the Treaty of Amity and Commerce. In that article we promise mutually that, while we continue in amity, neither party will in future make any treaty that shall be inconsistent with that article or the one preceding it. We cannot, therefore, renew with France the seventeenth and twenty-second articles of the Treaty of 1778. Her aggressions, which occasioned the dissolution of that treaty, have deprived her of the priority of rights and advantages therein stipulated. Indeed, if the public faith pledged in the British Treaty did not forbid a renewal of those engagements with France, sound policy should prevent it. We should preserve to ourselves the right of allowing every commercial nation in amity with us the like shelter, supplies, and assistance, under like circumstances; and, by excluding all equally when engaged in war, (saving to each the rights of humanity and hospitality,) we may keep the calamities of war at a distance. The engagements with Great Britain may cease in two years after the close of the present war: but, under the stipulations contained in the twenty-eighth and last articles of the British Treaty, the engagements in question may be continued to a longer period. If, therefore, you should find any cogent reasons for renewing in substance the seventeenth and twenty-second articles of the Commercial Treaty with France of 1778, it must be with the explicit declaration that neither at the present or any future time, shall the said articles be construed to derogate from the whole or any part of the twenty-fourth and twenty-fifth articles of the Treaty of Amity, Commerce, and Navigation between the United States and His Britannic Majesty, concluded at London on the 19th of November, 1794.

XXII. The present war has exhibited such inconveniences and mischiefs in our own country, and such monstrous abuses elsewhere, by trials,

or pretended trials, and sales of prizes, by French Consuls and agents: in order to prevent any claim to the exercise of such powers, it will be expedient expressly to declare they shall not be exercised in the United States; whether the prizes are made by public ships or privateers. There will, of course, be a reciprocal denial of the exercise of the like powers by American Consuls and agents in the dominions of France. Prizes ought to be conducted to the country to which the captors belong, unless the two parties are engaged in hostilities against a common enemy. But, in this case, the established courts for prize causes in the country to which the prizes are conducted should alone take cognizance of them.

XXIII. The duties of an impartial neutrality, when either party shall remain neutral, will forbid any permission to the enemies of the other to arm originally, or to increase a former armament, in the ports of the neutral party.

XXIV. When one of the parties shall be engaged in war, the vessels of the other may be captured on just suspicion of having on board property belonging to the enemy of the former, or of carrying to the enemy any of the articles which are contraband of war. With these exceptions, the trade of each party to the ports of the enemies of the other should be perfectly free, unless to the ports actually blockaded; and if such enemies forbear to capture enemies' property in neutral vessels, it may be agreed that in such case, the contracting parties will forbear to capture the vessels of each other for that cause. The law of France of the 18th of January, 1793, respecting produce or manufactures coming from England or her possessions, is incompatible with the stipulation here proposed, and, if not repealed, negotiations with you must be deemed illusory.

But that captures on light suspicions may be avoided, and the vexations and injuries thence arising prevented, the usual stipulations for sea-letters or passports, and certificates or manifests of the cargoes of vessels, may be introduced. But neither party should be allowed to prescribe the form, or to require the exhibition of any document (the sea-letter and certificates before mentioned excepted) not required by the laws or usages of the party to whose citizens the vessels and their cargoes belong. The form of the sea-letter should be simple, like that now used by the United States, in that part of the passport which is printed in the English language.

When the quality of the ship, goods, and master, shall sufficiently appear from the sea-letter and certificates, the commanders of armed vessels should exact no further proof. And if any merchant ship be not provided with a sea-letter or certificates, the case should be examined by a proper judge; and if it be found, from other proofs and documents, that the vessel truly belongs to the citizens of one of the parties, it should not be liable to confiscation, but be released with its cargo, with the exception of enemies' property and contraband goods which may be found on board. The change of the master not to invalidate the passport.

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XXV. The following articles, beyond the quantities proper for the ship's use, may be deemed contraband of war: cannon, mortars, their carriages and beds, muskets, petards, match, ball, bombs, grenades, carcasses, cartridge-boxes, gunpowder, saltpetre, pikes, halberds, swords, belts, pistols, holsters, cavalry saddles and furniture, and, generally, all kinds of arms and warlike instruments fit for the use of troops; and all these articles may be declared to be just objects of confiscation, whenever they are attempted to be carried to an enemy; but the vessel in which they are laden and the residue of the cargo to be free. France will probably not desire to extend further the use of contraband, and especially not to comprehend timber for ship building, naval stores, and other articles for the equipment of ships. If, however, she urges an extension, then timber for ship building, tar, pitch, turpentine, rosin, copper in sheets, sails, and sail cloth, hemp and cordage, may be added; and, generally, whatever may serve directly and principally for the equipment of vessels. But iron in pigs and bars, timber for house frames, pine or fir planks and boards, staves, nails suitable for house building, coarse linens, and, generally, all other articles which, though occasionally or from necessity applicable to the equipment of ships, are not directly and principally prepared for that purpose.

It is also probable that France will not desire to consider provisions as contraband, unless going to a place actually blockaded, and we ought strenuously to resist any other construction; but if what is said on this subject in the eighteenth article of our commercial treaty with Great Britain should induce France seriously and with earnestness to demand the like stipulation, it may be conceded; yet a modification may first be attempted, by proposing not only that if provisions be captured, they shall be promptly paid for, with a reasonable mercantile profit, freight, and demurrage, but that they shall not be captured at all unless going to a place actually blockaded, or to supply an invading army or hostile fleet, though in situations not actually forming an investment or blockade.

XXVI. If, on the exhibition of the certificates or manifests of a ship's cargo, the property of an enemy, or contraband goods, be discovered, and the ship be consequently captured and carried into port, provision must be made to prevent embezzlement, waste, and destruction.

But there is a very common regulation to prevent disorder and injury in stopping and examining neutral ships, which certainly is disregarded in practice, viz: That the examining ship shall not approach the neutral within cannon shot, while her boat is sent to make the examination. It is a rule which would produce both inconvenience and delay, and in bad weather be impracticable, or very dangerous. The provision that only two or three men shall enter the neutral vessel is very proper, though, like many other salutary regulations, is not enforced by penalties on offenders. But instead of visiting the neutral, the other often requires the neutral to send an officer

with his papers. This is an abuse; and many instances have occurred in the present war, in which it has been practised with great inhumanity, and most when it was most inhuman—in tempestuous weather, when a boat could not be put out, but with imminent danger of the lives of the men. It will therefore be very well to stipulate that the neutral party shall in no case be required to go on board the examining vessel. And if this should in any cases prevent an examination, it can afford no just ground of complaint; for *prima facie*, better is the right of the neutral than of the belligerent vessel. Besides, the stipulation would be reciprocal.

XXVII. The usual stipulations in treaties, designed to prevent abuses by armed vessels, have ever been found inadequate; perhaps they do not admit of a complete remedy. If, however, any nation does not provide penalties and securities, whereby to restrain offenders and indemnify the injured, the nation itself ought to be responsible. Doubtless, the nation should be immediately responsible for all abuses committed by national ships.

One abuse is the destruction or concealment of papers of captured vessels. A remedy for this seems practicable: the captors may be obliged to give a receipt for them upon a list of the papers; and they may also be sealed up with the seals of the captors and captured.

The master and supercargo, being entrusted by the owners with the vessel and cargo, ought never to be separated from them. They may prevent waste and embezzlement, and, on the arrival of the vessel, will be ready for examination; and, also, to claim the property in behalf of the owners, and contest, as of right they may do, the legality of the capture.

Bribery, or an attempt to bribe any one of the ship's company or passengers to depose to any fact tending to the condemnation of vessel or cargo, or putting any of them to torture for that or any other purpose, should absolutely procure her acquittal.

But a still greater evil remains, and more difficult to remedy—the improper institution of prize courts. Probably no provision can be explicitly made, other than that each party will take effectual care that the judgments and decrees in prize causes shall be given, conformable to the rules of justice and equity, and the stipulations of the treaty, and without any unnecessary delay, by judges above all suspicion, and who have no manner of interest in the cause in dispute. It would be some check on the judges in prize causes if their reasons for condemning were required to be stated, with the other proceedings, in writing; and copies of the whole should, if demanded, be delivered to the commander or agent of the captured vessel without the smallest delay, or, at furthest, within fifteen days after sentence pronounced, and sooner if practicable, and at the expense of the captors, (in case of condemnation,) not of the captured, who are otherwise sufficiently distressed.

Prizes, as already observed, should be conducted into the ports of the party at war, or of an asso-

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ciate in the war, and there adjudicated by the regular tribunals. The French have conducted their prizes into neutral as well as belligerent ports; and, when there was no Consul to try and condemn, leaving there the prizes, they have carried the papers to a distant place to find a French tribunal; and there, in the absence of the captured party, procured sentences of condemnation, and sold the prizes. The same mode of obtaining condemnation has been uniformly practised when they carried their prizes into the ports of an associate in the present war. But, without waiting for the result of this farcical trial, it has been common to unlade and sell the cargoes as soon as they reached a port.

An unreasonable burden is imposed on the captured, in requiring them, if they think proper to appeal to a higher tribunal, to find sureties in large penalties, which, as strangers, it is impossible to procure. This evil demands redress.

The crews are often stripped of their property, and even of their clothes, and turned ashore without money or provisions. Such inhuman pillage is disgraceful to the nation which permits, or does not, by adequate punishments, restrain it. The masters, supercargoes, other officers and seamen, should be allowed certain sums; the former to employ counsel to support their claims to the property captured, and also for their subsistence; and the seamen might have an adequate allowance of good provisions until they could find vessels returning to their own country. To admit masters and supercargoes into the courts to defend the property captured, when they have been previously stripped of their money, and all means of providing the legal assistance essential to a right defence, is to tantalize with the semblance of justice, while the substance is denied.

XXVIII. If vessels of either party sail for a place actually blockaded by the other, without a previous knowledge of the blockade, every such vessel may be turned away, but not detained, nor her cargo, if not enemy's property, nor contraband, be confiscated, unless, after notice, she shall again attempt to enter. Nor should any vessel that may have entered prior to the blockade, be restrained from quitting such place with her return cargo; nor, if found there after the reduction of the place, should they be liable to any injury.

XXIX. If a war should break out between the two nations, six months after the proclamation thereof may be allowed to the merchants and others of each nation, residing in the dominions of the other, for selling and transporting their goods and merchandise. And if, during that term, any thing be taken from them, or injury done them, by either party, or the citizens or subjects of either party, full satisfaction should be made.

XXX. The articles of the treaty which you may conclude, as far as they respect compensation and payment for past injuries and contracts, should be permanent, until the objects thereof be fulfilled. So likewise the article to prevent the sequestration or confiscation of debts, and shares or moneys in the public funds, or in public or private banks, should endure, while on either side

there is a subject on which to operate. The other articles of the treaty should terminate in ten or twelve years; a period as long as they will be likely to be mutually satisfactory.

The following points are to be considered as ultimated:

1. That an article be inserted for establishing a board, with suitable powers, to hear and determine the claims of our citizens, for the causes hereinbefore expressed, and binding France to pay or secure payment of the sums which shall be awarded.

2. That the treaties and consular convention, declared to be no longer obligatory by act of Congress, be not in whole or in part revived by the new treaty; but that all the engagements, to which the United States are to become parties, be specified in the new treaty.

3. That no guaranty of the whole or any part of the dominions of France be stipulated, nor any engagement made, in the nature of an alliance.

4. That no aid or loan be promised in any form whatever.

5. That no engagement be made inconsistent with the obligations of any prior treaty; and, as it may respect our Treaty with Great Britain, the instruction herein marked XXI, is to be particularly observed.

6. That no stipulation be made granting powers to Consuls or others, under color of which tribunals can be established within our jurisdiction, or personal privileges be claimed by Frenchmen, incompatible with the complete sovereignty of the United States in matters of policy, commerce, and Government.

7. That the duration of the proposed treaty be limited to twelve years, at furthest, from the day of the exchange of the ratifications, with the exceptions respecting its permanence in certain cases, specified under the instruction marked XXX.

TIMOTHY PICKERING.

DEPARTMENT OF STATE, Oct. 22, 1799.

List of books and papers, delivered to Governor Davie for the use of the Envoys to the French Republic.

1. Chalmers's collection of Treaties between Great Britain and other Powers, 2 vols.

2. Complete copy of the Laws of the United States, 4 vols.

3. Correspondence between Mr. Jefferson, Secretary of State, and the French Minister, Mr. Genet, 1 vol.

4. Letter from T. Pickering, Secretary of State, dated January 16, 1797, to General Pinckney, Minister from the United States to the French Republic, with an appendix, containing correspondences with the French Ministers, Fauchet and Adet, 1 vol.

5. Documents (including General Pinckney's information of his mission) laid before Congress, the 16th of May, 1797, 1 pamphlet.

6. Instructions to, and proceedings of, the late Envoys, Pinckney, Marshall, and Gerry, 3 copies.

7. Mr. Gerry's letter of October 1, 1798, and correspondence with M. Talleyrand, 3 copies.

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8. French originals of Mr. Talleyrand's communications, 3 copies.

9. Report of T. Pickering, Secretary of State, on Mr. Gerry's letter and communication, 3 copies.

10. Report of T. Pickering, Secretary of State, on French spoliations, laid before Congress, February 27, 1797, 1 copy.

11. Report of further spoliations, received September 6, 1798, from General Pinckney, manuscript.

12. Letter dated 12th May, 1799, from M. Talleyrand to Mr. Murray, containing *the assurances*.

13. Letter of credence to the French Directory, sealed with the seal of the United States.

14. One copy of the letter of credence.

15. Three sets of instructions for negotiating with the French Republic.

16. Form of the passport, or sea-letter, annexed to the treaty of February 6, 1798.

17. Printed sea-letter in four languages, as now used in the United States.

18. Papers on the affairs of St. Domingo: 1. Letter from General Toussaint, to the President of the United States, dated November 6, 1798; 2. Answer to ditto, from the Secretary of State, March 4, 1799; 3. Letter of instructions to Edward Stevens, Esq., Consul General, and marked No. 1, March 7, 1799; 4. Letter to Edward Stevens, Esq., No. 2, April 20, 1799; 5. Heads of regulations and points understood between the Governments of Great Britain and the United States; 6. Letter to Edward Stevens, Esq., No. 3, May 9, 1799; 7. Letter to Edward Stevens, Esq., No. 4, June 1; 8. Letter to Edward Stevens, Esq., No. 5, July 5; 9. President's proclamation for opening trade with St. Domingo.

19. Letter to General Desfourneaux, agent of the French Directory at Guadaloupe, declaring the terms on which trade might be opened with that island.

20. Letter of instructions to Samuel Cooper, Esq., sent to the Isle of France to propose terms for opening trade with that island.

21. Letter from Fulwar Skipwith, late Consul General of the United States at Paris, dated January 23, 1799, enclosing a letter from Mr. Talleyrand, dated 12th December, 1798, on the *rôle d'équipage*.

22. A cipher, for secret correspondence with the Department of State.

23. Personal passports for Judge Ellsworth and Governor Davie.

24. Passport for the frigate United States.

25. Letter to Judge Ellsworth and Governor Davie, mentioning the names of Consuls and agents of the United States in Spain, Portugal, and France.

Mr. Ellsworth and Mr. Davie sailed from Newport, Rhode Island, on the 3d of November, having agreed to touch at Lisbon, before they made any port of France; arrived there on the 27th of November. Information of the revolution at Paris of the 18th Brumaire had just been received, and it was therefore thought expedient to remain long

enough at that place to form some judgment of the consequences of that change in the French Government. Upon a conference on the 6th of December, the Envoys resolved on the measures detailed in the following letter to the Secretary of State:

LISBON, *December 7, 1799.*

SIR: We arrived at this place on the 27th ultimo. The late change in France, the circumstances of which we are informed will be fully detailed in Mr. Smith's despatches, and our desire to obtain a more accurate knowledge of the features and effects of this revolution before we entered that country, would have induced us to land in Holland, where we might join Mr. Murray, and be in a better situation to govern ourselves by circumstances; but Captain Barry apprehends it would hazard the frigate to attempt any port in Holland at this season of the year; we have, therefore, determined to sail immediately for L'Orient.

From L'Orient we shall probably proceed to Paris, if we can be satisfied that our present letters of credence will avail us. You will doubtless consider, sir, of the expediency of sending us, with your first despatches, other letters of credence addressed to the Supreme Executive of France, or in a manner more particular, which may introduce us, if necessary, or sanction the progress we have made. We have the honor, &c.,

OLIVER ELLSWORTH,
W. R. DAVIE.

HON. TIMOTHY PICKERING,
Secretary of State.

Mr. Ellsworth and Mr. Davie, being detained nine days by contrary winds, sailed on the 21st of December for L'Orient; a succession of heavy gales and continued bad weather then rendering it apparently impracticable to reach that place, they authorized Captain Barry to make any port in France or Spain, and arrived at Corunna on the 16th of January, and the next day sent the following letter to Ch. M. Talleyrand, Minister of the Exterior Relations of the French Republic, by a special courier:

CORUNNA, *January 17, 1800.*

The undersigned, Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the French Republic, have the honor to inform you of their arrival at this port, after a lapse of ten weeks since their leaving America, and the loss of four in a fruitless attempt to get from Lisbon (where they touched) to L'Orient. From hence they will proceed immediately to the confines of France by land.

As they left the United States early in November, their letters of credence are, of course, addressed to "the Executive Directory of the French Republic." This circumstance being a matter of mere formality, they are induced to suppose that no objection will arise out of it, and that their letters of credence will have the same effect as they would have under an address adapted to the present distribution of the powers of the French Republic. Should the Government view this cir-

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cumstance in the same light with the undersigned, they then request that passports may be granted for them and their suite to Paris, and that they may be forwarded by the courier charged with these despatches; and also that there may be granted, and that you would have the goodness to transmit, together with their letter to him, a like passport to William Vans Murray, Esq., at the Hague, who is joint Envoy Extraordinary and Minister Plenipotentiary, as before mentioned, with them. They pray you, sir, to accept the assurances of their high respect,

OLIVER ELLSWORTH,
WILLIAM R. DAVIE.

MINISTER OF FOREIGN RELATIONS, &c.

The following is the letter forwarded to William Vans Murray, Esq., mentioned in the above

CORUNNA, *January 17, 1800.*

DEAR SIR: We enclose to you a copy of our note to the Minister of Foreign Relations of the French Republic, from which you will learn our situation, and the steps we have taken to facilitate your progress and ours to Paris, where we hope soon to meet you for the accomplishment of a business which we all have so much at heart. Your letter of credence and your instructions are with us. With much respect and esteem, we are, dear sir, your obedient servants,

OLIVER ELLSWORTH,
WILLIAM R. DAVIE.

WILLIAM VANS MURRAY, Esq.

The above Envoys, in pursuance of the plan which they had adopted of going to Paris by land, left Corunna on the 24th of January, and arrived at Burgos on the 9th of February, where they met the courier returning from Paris, with the following answer from the Minister of Exterior Relations:

PARIS, *11th Pluviose, (30th January.)*
8th year of the French Republic.

GENTLEMEN: I have received the letter dated at Corunna, which you have done me the honor to write. I regret exceedingly that an unpleasant and protracted voyage has so long delayed your arrival in France. You are expected with impatience and will be received with warmth. The form which has been given to your letters of credence will occasion no obstacle to the opening of a negotiation, from which I dare anticipate the happiest results. No time will be lost in transmitting to Mr. Murray the letter intrusted to my care, to which will be added the necessary passports. The requisite passports will also be forwarded to you. Agreeably to your desire, I confide this packet to the courier whom you have despatched.

Receive, gentlemen, the assurance of my high consideration.

CH. MAU. TALLEYRAND.

Messrs. ELLSWORTH and DAVIE,
Envoys, &c., of the United States.

Captain Barry having received directions from the Envoys to wait the return of the courier to Corunna, in order to take their despatches for the Government, the following letter was written to the Secretary of State:

BURGOS, *February 10, 1800.*

SIR: We have the pleasure to enclose to you a copy of our letter No. 1, dated at Lisbon, and forwarded from St. Ubes. We were detained in the Tagus by contrary winds till the 21st of December, when we sailed for L'Orient, under the expectation of making that port in seven or eight days; but, on the 24th, we encountered a severe gale, which blew with little intermission until the 2d of January, at which time it was ascertained that we had drifted as far as latitude 50, and to the west of Cape Clear. Observing that Captain Barry was extremely apprehensive of approaching any part of the French coast, on the Bay of Biscay, in bad weather, and as so much time had been already lost, we directed him to land us in any port of France or Spain that he could make with safety and convenience; he thought proper to choose the port of Corunna, and anchored in the Bay of Ares, a few leagues from that place, on the 11th of January. Being anxious to make the necessary preparations for our journey to Paris, and the wind continuing unfavorable for the sailing of the frigate to Corunna, we landed at the village of Puente d'Eume, and immediately after our arrival at Corunna, despatched a courier to Paris, with a letter addressed to the Minister of Foreign Relations, desiring the necessary passports, (a copy of which is enclosed, marked A.) covering also a letter to Mr. Murray, a copy of which (marked B.) you will receive under this enclosure.

The necessary arrangements were made to meet the courier at Burgos, or Victoria, and he fortunately reached this place yesterday, a few hours before our arrival, charged with the despatches (marked C.) from Ch. M. Talleyrand, Minister of Exterior Relations, enclosing the passports requested in our letter written at Corunna.

We regret exceedingly the time that must be consumed in a long and tedious journey by land, in the most rigorous and unfavorable season of the year; but after the ineffectual attempt to go to L'Orient by water, this measure appeared indispensable, notwithstanding any difficulties with which it might be connected. We expect to leave this place to-morrow, and flatter ourselves with the hope of arriving in Paris about the first of March. We have the honor to be, &c.,

OLIVER ELLSWORTH,
WILLIAM R. DAVIE.

HON. TIMOTHY PICKERING,
Secretary of State.

The Envoys set out from Burgos on the 11th of February, and, taking the route by Bayonne, arrived in Paris on the 2d of March, where Mr. Murray had also arrived the preceding day.

The following was delivered by Mr. Murray, as an extract from his journal:

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Mr. Semonville, the French Minister at the Hague, called on me on the 4th of February, and delivered to me a packet from Mr. Talleyrand, containing a passport, a letter from my colleagues Mr. Ellsworth and Mr. Davie, dated at Corunna, and the following letter:

PARIS, 11th *Pluviose*, (30th January),
8th year of the French Republic.

SIR: I have received information that the Plenipotentiaries of the United States, after a long and difficult voyage, have arrived at Corunna. They have forwarded to me the enclosed letter, which I hasten to transmit to you. I avail myself of this occasion to enclose a passport, which may be necessary on your repairing to Paris. While indulging the hope that you will speedily join your colleagues, I felicitate myself upon the prospect that the time will soon arrive, when, by a frank and full discussion, a termination will be put to the difficulties existing between the Republic of France and the United States, and when the two nations will be restored to that friendly and harmonious intercourse which ought never to have been suspended. Receive, sir, the assurance of my high consideration.

CH. MAU. TALLEYRAND.

To Mr. MURRAY,

Envoy, &c., of the U. S. at the Hague.

To which I returned the following answer:

THE HAGUE, February 4, 1800.

CITIZEN MINISTER: Mr. Semonville, the Minister Plenipotentiary of the French Republic, had the goodness to-day to deliver to me himself the letter of the 31st ultimo, which you did me the honor to write, enclosing passports for myself, family, and baggage, and a letter from my colleagues, Mr. Ellsworth and Mr. Davie; accept my thanks for this communication.

I shall immediately prepare for my new destination, one from which I now permit myself to hope a restoration of that harmony which certainly ought not to have been so cruelly interrupted.

May I ask a repetition of an act of politeness in requesting that the enclosed may be delivered to my colleagues, who I hope will be in Paris immediately. Accept, Citizen Minister, the assurance of my high consideration.

W. V. MURRAY.

To CITIZEN TALLEYRAND,

Minister, &c., of the French Republic.

On the 10th, I requested personally of Mr. Vemder Goes, the Minister of Exterior Relations, an audience of leave. This was fixed for the 13th, when I took a temporary leave of the Batavian Directory, and on the 17th set out for Paris.

The severity of the season, and a two days' illness of Mrs. Murray on the road, prevented me from making a journey, generally made in five days, in less than thirteen. On Saturday evening, the 1st March, I arrived at Paris, and the next day had the pleasure of seeing Mr. Ellsworth and Mr. Davie arrive.

MARCH 3d.

The following note was addressed to the Minister of Exterior Relations:

PARIS, 3d March, 1800, and of the
Independence of the U. S. the 24th.

CITIZEN MINISTER: The undersigned, Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the French Republic, have just met at this city, and request the favor of you to inform them at what time it may be convenient to you to receive a visit from them.

Accept, Citizen Minister, the assurance of their high consideration.

OLIVER ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

To Citizen TALLEYRAND,

Minister of Exterior Relations, &c.

The following notes were received from the Minister, in answer to the above, and the demand verbally made by the Envoys of being formally received by the Premier Consul:

The Minister of Exterior Relations to Messrs. Oliver Ellsworth, W. R. Davie, and W. V. Murray, Envoys Extraordinary and Ministers Plenipotentiary of the United States of America.

PARIS, 13th *Ventose*, (3d March),
year 8 of the French Republic.

GENTLEMEN: The information which you have just communicated, of your arrival at Paris, has given me real satisfaction. If you will take the trouble to call upon me at half-past twelve tomorrow, I will be exceedingly gratified at having the honor to receive you. Accept, gentlemen, the assurance of my high consideration.

CH. MAU. TALLEYRAND.

The Minister of Exterior Relations to Messrs. Ellsworth, Davie, and Murray, Ministers Plenipotentiary and Envoys Extraordinary of the United States of America.

PARIS, 14th *Ventose*, (4th March),
8th year of the French Republic,
one and indivisible.

GENTLEMEN: I have the honor to inform you that the First Consul of the Republic will give you an audience on the 17th instant; I pray you, therefore, to be so obliging as to attend on that day at the Tuilleries, in the Hall of the Ambassadors, a little before one o'clock. I beg you to accept the assurance of my high consideration.

CH. MAU. TALLEYRAND.

MARCH 8th, (17th *Ventose*.)

The Envoys were received by the Premier Consul, in the manner required by their instructions.

Citizens Joseph Bonaparte, Fleurieu, and Rœderer, being appointed by the Premier Consul, on the 13th *Ventose*, Ministers Plenipotentiary for the purpose of negotiating with the Ministers Plenipotentiary and Envoys Extraordinary of the United States, upon the differences existing between the two States, this event was announced

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to the Envoys of the United States, by the Minister of Exterior Relations, in the following letter, under date of the 18th Ventose, (8th of March:)

The Minister of Exterior Relations to Messrs. Ellsworth, Davie, and Murray, Envoys Extraordinary and Ministers Plenipotentiary of the United States of America.

PARIS 18th Ventose, (8th of March,) 8th year of the French Republic, one and indivisible.

GENTLEMEN: I have the honor to inform you that the First Consul of the Republic has just appointed Citizens Joseph Bonaparte, ex-Ambassador at Rome, Fleurieu, late Minister of Marine, and Røederer, Counsellor of State, Ministers Plenipotentiary, to treat with you concerning the differences existing between the two nations, to effect the accommodation which they mutually desire, and to fulfil the wish, expressed by the two Governments, to remove a misunderstanding which comports as little with their interests as with their sentiments. Receive, gentlemen, the assurance of my high consideration.

CH. MAU. TALLEYRAND.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Minister of Exterior Relations of the French Republic.

PARIS, March 9, 1800.

CITIZEN MINISTER: The undersigned, Envoys Extraordinary of the United States, have the honor to acknowledge your letter of yesterday, announcing to them that the Premier Consul of the Republic had named the Citizens Joseph Bonaparte, ex-Ambassador at Rome, Fleurieu, late Minister of Marine, and Røederer, Counsellor of State, as Ministers Plenipotentiary to treat with them on the differences existing between the French Republic and the United States of America.

The Government of the United States, being always assured that the interests of both nations would be essentially promoted by the re-establishment of confidence and harmony between the two countries, is sincerely desirous to adjust all existing differences, and to restore between them that understanding and friendly intercourse so congenial to her wishes, and so essential to their mutual prosperity.

The agreeable and interesting task of effecting these great objects has been committed, on the part of the United States, to the undersigned, and they will be ready to enter upon that business as soon as the Ministers Plenipotentiary of the French Republic shall signify that they are ready to commence the negotiation. Accept, Citizen Minister, the assurances of their high consideration.

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

The Envoys of the United States having thus informed the Minister of Exterior Relations of

their readiness to enter on the business of the negotiation, as soon as it would be convenient for the Ministers of the French Republic, they waited until the 14th for some intimation from them on that subject: none, however, being then received, they agreed to address the following note to Messrs. Joseph Bonaparte, Fleurieu, and Røederer, the Ministers announced in the above communication:

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

PARIS, March 15, 1800.

MINISTERS: The undersigned had the pleasure to be informed of your appointment as Ministers Plenipotentiary to treat with them on the differences existing between the French Republic and the United States, by a letter from the Minister of Exterior Relations, under date of the 18th Ventose.

The necessary previous measures appearing now to be taken by both Governments, it remains with their Ministers to have their wishes fulfilled: and the undersigned permit themselves to hope that the strange phenomenon of a misunderstanding between the French Republic and the United States of America will soon disappear. They will have the honor to meet the Ministers Plenipotentiary of the French Republic at such time and place as they may prefer, for the exchange of powers, and to learn how soon it will be convenient for them to commence the negotiation. Accept, Ministers, the assurances of their high consideration.

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

MARCH 27th.

The Envoys had received no answer to their note of the 15th, but had been informed, verbally, that the delay was much regretted by the French Government and the Ministers, and that it was occasioned by the indisposition of Mr. Joseph Bonaparte, President of the French Commission, who, in a note to the Envoys, of this date, announced his recovery. The French Ministers, however, continuing silent, the Envoys addressed the following note to them, on the morning of the 29th; and, in the afternoon of the same day, received the note under date of the 8th Germinal, (same date:)

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to Citizens J. Bonaparte, Fleurieu, and Røederer, Ministers Plenipotentiary of the French Republic.

PARIS, March 29, 1800.

CITIZEN MINISTERS: The undersigned are happy to learn that the indisposition of Mr. Bonaparte, which has so unfortunately retarded the commencement of the negotiation, is at length removed: and, impressed as they are with the importance of their mission, and the urgency of existing circumstances, they take again the liberty

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to express their solicitude that an early day may be named, at which it will be convenient for you to honor the undersigned with an interview, for the purpose of effecting the object of their last note. Accept, Citizen Ministers, &c.

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

The Ministers Plenipotentiary of the French Republic to the Envoys Extraordinary and Ministers Plenipotentiary of the United States of America.

PARIS, 8th Germinal, year 8,
(27th March, 1800.)

GENTLEMEN: We participate, very sincerely, in the wish which you have expressed for the speedy re-establishment of friendly relations between the United States of America and the French Republic; and it is for the purpose of hastening its accomplishment that we propose a conference the 11th or 12th instant, at whatever hour may be most convenient to you, at the house of Citizen J. Bonaparte, one of us. Receive, gentlemen, the assurance of our high consideration.

BONAPARTE.
FLEURIEU.
RÖDERER.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

PARIS, March, 30, 1800.

CITIZEN MINISTERS: The underwritten Envoys Extraordinary and Ministers Plenipotentiary of the United States have the pleasure to acknowledge the receipt of your note of the 8th Germinal, proposing a meeting on the 11th or 12th following, at such hour as might be convenient.

The underwritten will have the honor to meet the Ministers Plenipotentiary of the French Republic at the house of the Citizen Joseph Bonaparte, on the 12th Germinal, (2d April,) at one o'clock in the afternoon; a time which they hope will be agreeable. Receive, Citizen Ministers, the assurance of their high consideration.

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

On the 2d of April, (12th Germinal,) the Envoys of the United States met the French Ministers at the house of Joseph Bonaparte, where the following powers were exchanged, and the mode of conducting the negotiation adjusted:

Extract from the Registers of the Decrees of the First Consul of the Republic.

PARIS, 12th Ventose, (3d March),
year 8 of the French Republic,
one and indivisible.

In the name of the French people: Bonaparte, First Consul of the Republic, upon the report of the Minister of Foreign Relations, decrees:

ARTICLE 1. Citizen Joseph Bonaparte, ex-Ambassador of the French Republic. Fleurieu, and

Rœderer, Counsellors of State, are appointed Ministers Plenipotentiary, for the purpose of negotiating with the Ministers Plenipotentiary and Envoys Extraordinary of the United States, upon the differences existing between the two nations.

ART. 2. Citizen Joseph Bonaparte shall preside over the French Ministers.

BONAPARTE.

By the First Consul: the Secretary of State,

HUGUES B. MARET.

A true copy: the Minister of Exterior Relations,
CH. MAU. TALLEYRAND.

A true copy: the Ministers Plenipotentiary,
BONAPARTE,
FLEURIEU,
RÖDERER.

JOHN ADAMS, President of the United States of America. To all to whom these presents shall come, greeting:

Whereas, by letters patent under the seal of the United States, and dated on the 26th day of February last, I did, by and with the advice and consent of the Senate of the United States, appoint Oliver Ellsworth, Chief Justice of the United States, Patrick Henry, late Governor of Virginia, and William Vans Murray, Minister Resident of the United States at the Hague, to be Envoys Extraordinary and Ministers Plenipotentiary of the United States to the French Republic, thereby giving and granting to them full powers, for and in the name of the United States, to meet and confer with the Minister or Ministers of the French Republic, who should be appointed and commissioned with equal powers, and with such Minister or Ministers to discuss and settle by a treaty all controversies between the United States and France, transmitting such treaty to the President of the United States of America, for his final ratification, by and with the advice and consent of the Senate of the United States, if such advice and consent shall be given; and whereas the said Patrick Henry did signify to me that, from his bodily infirmities, being unable to execute his said appointment, he declined accepting the same; now, know ye, that reposing especial trust and confidence in the integrity, prudence, and abilities of William Richardson Davie, late Governor of the State of North Carolina, I have nominated, and, by and with the advice and consent of the Senate, do appoint him an Envoy Extraordinary and Minister Plenipotentiary of the United States to the French Republic, in the room of the said Patrick Henry, hereby giving and granting to him, and to the said Oliver Ellsworth, and William Vans Murray, full powers for and in the name of the United States, to meet and confer with the Minister or Ministers of the French Republic, who shall be appointed and commissioned with equal powers, and with such Minister or Ministers to discuss and settle by a treaty all controversies between the United States and France, transmitting such treaty to the President of the United States of America, for his final ratification, by and with the advice and consent of the Senate of the

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United States, if such advice and consent shall be given.

In testimony whereof, I have caused these letters to be made patent, and the seal of the United States of America to be hereunto affixed. Given under my hand, at the city of Philadelphia, the tenth day of December, in the year of our Lord one thousand seven hundred and ninety-nine, and of the independence of the United States the twenty-fourth.

JOHN ADAMS.

By the President:

TIMOTHY PICKERING.

Secretary of State.

The Envoys, after withdrawing, proceeded immediately to consider the copy of the powers delivered by the French Ministers; and, as they appeared to them not sufficiently full and explicit to authorize them to commence the negotiation under the limitation of their own powers, they addressed the following note to the French Ministers on the next day:

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

PARIS, April 3, 1800.

CITIZEN MINISTERS: The undersigned Envoys, having conferred on the copy delivered to them yesterday, of the powers granted to you to negotiate with them concerning the existing differences between the French Republic and the United States, feel themselves compelled to present to you the doubts they entertain whether the terms in which those powers are expressed are sufficiently full and explicit. You will please to observe that the powers with which the undersigned are invested, authorize them to discuss and settle by a treaty all controversies between the United States and France, and they suppose it may be questionable, at least, whether the same latitude of power may be given by the expression, "*à l'effet de négocier avec les Ministres, &c. sur les différends survenus entre les deux états;*" and if it could be inferred from any construction of the terms used in the commission, that to "negotiate respecting the existing differences," implied a power to settle them also by treaty, yet the undersigned conceive that it would not be advisable to act upon powers deduced by implication from terms in their nature indefinite, in the same manner as if they had been fully and explicitly expressed. Upon examining the copy of the commission, which the undersigned had the honor to deliver to you yesterday, you will observe the nature and extent of their powers, and that they can only negotiate with Ministers of the French Republic, who may be commissioned with equal powers. This circumstance, it is hoped, will satisfy the Ministers of the French Republic, that the undersigned have not attached to this objection an unnecessary importance, and evince to them the propriety of procuring from their Government powers commensurate with those granted by the Government of the United States.

While the undersigned regret any trouble or

delay that this circumstance may occasion, they are happy that the situation of the Ministers of the French Republic will enable them to remove the difficulty without any considerable inconvenience to the negotiation.

The Envoys of the United States have the highest confidence in the upright views and frank disposition of the French Government, and hope it will do them the justice to believe that they are actuated only by a respect to that duty which their commission and instructions prescribe. Accept, &c.

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

APRIL 8.

Received the following letter from the French Ministers, under date of the 17th Germinal, (7th April,) enclosing a copy of the new powers, and a copy of a letter from the Minister of Exterior Relations:

The Minister of Exterior Relations to the Ministers Plenipotentiary appointed to negotiate with the Envoys of the United States.

PARIS, 19 *Germinal*, (April 6,) year 8.

I have received, citizens, your letter of the 13th and 14th of this month, (Nos. 1 and 2,) with the copies therein referred to.

By the first, you inform me of the exchange which you have made of your powers with the American Ministers; and, in the second, you communicate an extract of the note which these Ministers have addressed to you, respecting the insufficiency which they suppose to exist in the powers you have exchanged with them.

The First Consul, to whom I have submitted your despatches, in order to present to the Ministers of the United States an unequivocal proof of the spirit in which he desires to conduct the negotiation, has thought proper to furnish you with powers still more special and explicit than those contained in his first decree. In transmitting them, however, to the American Ministers, you will be pleased to apprise them that, in our diplomatic usages, since the Revolution, our negotiators have almost always been accredited and empowered by simple decrees, similar to the one which you have placed in their hands; and that in these decrees the expression "to negotiate" has always imported an authority "to conclude." I might have confined myself, indeed, to giving you, officially, this explanation; and the American Ministers, as they have themselves declared, would have been content with receiving it. But the First Consul has preferred the other mode, for the purpose, as I have already stated, of removing all the obstacles of mere form which could delay or embarrass the progress of the negotiation.

Safety and fraternity.

CH. MAU. TALLEYRAND.

An exact copy: the Ministers Plenipotentiary of the French Republic:

J. BONAPARTE,
FLEURIEU,
RØDERER.

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PARIS, *the 17th Germinal,*
(*7th April,*) year 8.

The undersigned, Ministers Plenipotentiary of the French Republic, have the honor to inform the Envoys Extraordinary and Ministers Plenipotentiary of the United States, that their letter, dated the 13th of this month, has been received.

In order to reply to this letter, the French Ministers have awaited the result of its reference to their Government, which they hastened to make. The answer which they received is enclosed. In the new powers, of which they have the honor to transmit the subjoined copy, the American Ministers will perceive the manner in which the First Consul of the Republic has removed the doubt which they expressed; and in the explanations contained in the letter of the Ministers of Exterior Relations, they will not fail to discover new motives of confidence. The Ministers of the Republic, presuming that no obstacle will now oppose the opening of the negotiation, expect to receive, on the part of the Ministers of the United States, the memorial which was announced at the conference of the 12th instant.

They pray them to receive the assurance of their high consideration.

J. BONAPARTE,
FLEURIEU,
RÖDERER.

Extract from the register of the Decrees of the First Consul of the Republic.

PARIS, *15th Germinal,* (5th March,) year 8th of the Republic, one and indivisible.

In the name of the French people: Bonaparte, Rœderer, and Fleurieu, appointed, by the decree of the 13th Ventose, (3d March) last, Ministers Plenipotentiary, to negotiate with the Envoys Extraordinary and Ministers Plenipotentiary of the United States of America upon the differences existing between the two nations, are authorized to negotiate with the said Ministers upon all that concerns these differences; as well as to sign and conclude, in the name of the Republic, whatever shall to them appear necessary to effect a perfect re-establishment of good harmony. To this end, therefore, Citizens Bonaparte, Rœderer, and Fleurieu receive, by this decree, full and complets powers.

BONAPARTE.

By the first Consul: the Secretary of State,
HUGHES B. MARET.

An exact copy: the Minister of Exterior Relations.
C. M. TALLEYRAND.

An exact copy: the Ministers Plenipotentiary of the French Republic.

J. BONAPARTE,
FLEURIEU,
RÖDERER.

The following answer was returned to the above communication, accompanied by a note under the same date, sketching the plan on which the Envoys proposed to open the negotiation. This proposition produced a discussion, detailed in the following correspondence up to the 17th April, inclusive;

when the Envoys considered the way sufficiently prepared to authorize them to offer some details in the form of articles of a treaty, respecting the claims of individuals.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Citizens Joseph Bonaparte, Fleurieu, and Rœderer, Ministers Plenipotentiary of the French Republic.

PARIS, *April 7,* 1800.

CITIZEN MINISTERS: The undersigned have great pleasure in acknowledging the receipt of the note which you did them the honor of addressing to them to day, covering the *arrêté* of new powers, and the copy of the letter to you from the Minister of Exterior Relations. That Minister, they are happy to see, has done them justice upon the interpretation which they had presumed to be the correct one of the terms in question; and as they unite with you in the wish to press forward the negotiation, they believe that, in transmitting the note which accompanies this, and which was promised on the 12th of Germinal, they at once meet the frankness of your views, and give to you a certain demonstration of the confidence with which the justice and principles of the Government of the French Republic have inspired them.

Accept, Citizen Ministers, the assurance of their high consideration.

OLIVER ELLSWORTH,
WM. R. DAVIE,
WM. V. MURRAY.

PARIS, *April 7,* 1800.

CITIZEN MINISTERS: The undersigned, appreciating the value of time, and wishing by frankness to evince their sincerity, enter directly on the great object of their mission, an object which they believe may be best obtained by avoiding to retrace too minutely the too well known and too painful incidents which have rendered a negotiation necessary. To satisfy the demands of justice, and render a reconciliation cordial and permanent, they propose an arrangement, such as shall be compatible with national honor and existing circumstances, to ascertain and discharge the equitable claims of the citizens of either nation upon the other, whether founded on contract, treaty, or the law of nations. The way being thus prepared, the undersigned will be at liberty to stipulate for that reciprocity and freedom of commercial intercourse between the two countries, which must essentially contribute to their mutual advancement. Should this general view of the subject be approved by the Ministers Plenipotentiary, to whom it is addressed, the details, it is presumed, may be easily adjusted, and that confidence restored which ought never to have been shaken. Accept, &c.

OLIVER ELLSWORTH,
WM. R. DAVIE,
WM. V. MURRAY.

PARIS, *19th Germinal,*
(*9th April,*) year 8.

The Ministers of the French Republic have perused with attention the plan proposed by the En-

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voys Extraordinary and Ministers Plenipotentiary of the United States for conducting the negotiation.

They are of opinion that the first object should be, to determine the rules, and the mode of procedure, for the valuation and indemnification of those injuries for which the two nations, respectively, may have demands against each other, whether these demands are founded on national injuries or individual claims.

And that the second object is, to insure the execution of the treaties of friendship and commerce, now existing between the two nations, and the accomplishment of those views of reciprocal advantage which first dictated them.

The undersigned have only, in addition, to observe, that as no measures are authorized by the Government of France affording the least ground of inquietude to the American commerce, they would consider it a preliminary favorable to the negotiation, if the Envoys Extraordinary and Ministers Plenipotentiary of the United States will be pleased to communicate the orders, no doubt issued by the President of the United States, to discontinue the operation of the acts of Congress, the enforcement of which must be viewed as repugnant to that good understanding for which both nations have expressed an equal desire.

The undersigned pray the Ministers Plenipotentiary to receive the assurance of their high consideration.

BONAPARTE,
FLEURIEU,
RÖDERER.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

PARIS, April 11, 1800.

CITIZEN MINISTERS: The undersigned have seen with pleasure in your note which they had the honor to receive yesterday, an acquiescence in the principle of compensating equitable claims of citizens on both sides; though you have proposed to include also claims which either nation might have for herself.

This description of claims was omitted in the proposition of the undersigned, not from the apprehension of an unfavorable balance, but because in their nature they were difficult to define and limit, because their discussion might be unpleasant and dilatory, and because, also, to insist on pecuniary compensation for themselves, would be incompatible with that magnanimity which it was presumed both nations would prefer in an act of accommodation, so auspicious to their future prosperity. If, however, after considering these objections, and others which will suggest themselves, the Ministers of the French Republic shall deem it necessary to provide pecuniary compensation for such claims, the undersigned will be ready further to consider the question at a convenient stage of the negotiation, which they apprehend will be after it shall be seen what arrangement would be acceptable for the claims of citizens.

The expectation of the undersigned, with regard

to commerce, is not to renew or amend the former treaty, but to propose a new one, which shall have fewer difficulties of construction and execution; shall more extend the provisions for intercourse, and better adapt them to the existing state of things; and they trust that, when the negotiation shall have sufficiently progressed to take up this branch of it more particularly, their expectation will be shown to be reasonable.

Any recent acts of the French Republic, having for their object to remove from the American commerce causes of disquietude, will be duly estimated in America, and be perceived to have strengthened the ground for returning confidence, when there shall have been time for it.

With respect to the acts of the Congress of the United States, which the hard alternative of abandoning their commerce to ruin imposed, and which, far from contemplating a co-operation with the enemies of the Republic, did not even authorize reprisals upon her merchantmen, but were restricted simply to giving safety to their own, till a moment shall arrive when their sufferings could be heard and redressed: of these acts the undersigned do not know that the President of the United States has suspended their effect, except in the instance of saving St. Domingo from famine. But, without doubt, their effects will wholly cease as soon as it can be assured that the necessity which imposed them no longer exists: of which the undersigned hope their mission will be regarded as a sufficient pledge.

Should it appear to the Ministers of the French Republic, from these explanations, made with a frankness equal to the candor with which they are sure to be examined, that the way is prepared to bring forward an arrangement for the claims of citizens, the undersigned will soon have the honor to offer for their consideration some details on that subject. Accept, &c.

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

The Ministers of France to the American Envoys.

PARIS, 23d *Germinal*, (14th April,) year 8.

The Ministers Plenipotentiary of the French Republic do not perceive, from the considerations suggested rather than developed by the Envoys Extraordinary and Ministers Plenipotentiary of the United States, any obstacle to arrangements which it may be proper to make, on the subject of the individual claims of one nation upon the other. It being impossible, on the part of either, to estimate these claims except by the discussion of the principles of the law of nations and the obligations of treaties, the national claims will, for the most part, be impliedly estimated by the value affixed to those of individuals. National stipulations will be only the ulterior consequences of admitted principles.

The question, therefore, whether it is expedient to form a new treaty, cannot be answered until after a discussion, in which the meaning of ancient treaties shall be determined, the principles of

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the laws of nations unfolded, and the application of these principles to the claims brought forward, whether national or individual, clearly shown. It is only when the doubts thus raised shall be removed, that the Ministers Plenipotentiary of the two nations will be able to determine whether the ancient treaties will suffice to their interests or not.

Finally, the Ministers of the French Republic cannot see without concern that the Ministers Plenipotentiary of the United States are uninformed of any revocation of the hostile measures which their Government has adopted with regard to France. The French Government, after rescinding several regulations which had given inquietude to the Federal Government; after publishing many others for the purpose of re-establishing perfect harmony; after professing, also, a readiness to do all that justice shall demand, in order to efface every irritating remembrance; had a right to expect, with other evidences of reciprocity, that the armed vessels of the United States should cease to attack the vessels of the Republic, and that the effusion of human blood should no longer be feared.

To prevent the interruption of the negotiation by vexatious incidents like these, it is necessary that the Ministers Plenipotentiary of the United States shall give an assurance to the Ministers Plenipotentiary of the Republic, that their Government will terminate, without delay, the hostile condition which it now maintains in relation to France. This assurance, strongly demanded by the acts of the French Government, to which a just reciprocity has been promised, can only be considered a legitimate exchange for that herein contained.

The undersigned pray the Envoys Extraordinary and Ministers Plenipotentiary of the United States to accept the assurances of their high consideration.

BONAPARTE,
FLEURIEU,
RÖDERER.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

PARIS, April 17, 1800.

CITIZEN MINISTERS: The undersigned have been favored with your note of the 23d of Germinal.

With respect to the assurances desired of them that measures of the United States, which had been resorted to for the protection of their commerce, should immediately cease, they must explicitly declare that they are not authorized to give assurances, otherwise than by incorporating them in a treaty, it having been expected by their Government that, in that way, every necessary assurance on both sides would so soon be given as to render preliminary provisions of little use: and which expectation the undersigned yet confidently trust will not be disappointed.

Should they, however, be favored with copies

of recent repeals of regulations, which had given inquietude to the United States, and of other regulations lately adopted with a view of re-establishing harmony, it would be as well their pleasure as their duty to transmit the same in the most favorable manner to their Government, which would be sure, in the conciliatory temper it has evinced, to receive from them very fully the correspondent impressions they are adapted to make. Penetrated as the undersigned are with the interests which both nations have in returning to a good understanding, they receive with sensibility a pledge of that event in the declaration, that the French Republic is ready to do all that justice can require to obliterate every irritating remembrance.

The undersigned, conceiving that the way is now prepared, have the honor to offer for consideration some details respecting the claims of individuals. They have preferred to offer them at once in the form of articles of the treaty, as containing a full and frank expression of their views; and as a mean by which the principles can be discussed connected directly with their application; as the most probable way of fixing the attention of the Ministers on both sides upon the points of difference of opinion, if any such exist; and as affording the most certain prospect of progressing in the business. And they have no doubt that in those articles or propositions will be seen a spirit of accommodation as well as of justice.

Accept, &c.

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

ARTICLE 1. There shall be a firm, inviolable and universal peace, and a true and sincere friendship, between the French Republic and the United States of America, and between their respective countries, territories, cities, towns, and people, without exception of persons or places.

ART. 2. Whereas complaints have been made by divers merchants and others, citizens of the United States, that, during the course of the war in which the French Republic is now engaged, they have sustained considerable losses and damage, by reason of irregular or illegal captures or condemnations of their vessels and other property, in ports and places within the jurisdiction or dominions of the said Republic, all under color of authority or commissions from the same; for which losses and damage they have failed, without manifest neglect or wilful omission on their part to obtain adequate compensation: it is agreed that, in all such cases, full and complete compensation shall be made by the Government of the French Republic.

And whereas complaints have also been made by divers merchants and others, citizens of the French Republic, that —, under color of authority or commissions from the United States; for which losses and damage they have failed, without manifest negligence or wilful omission on their part, to obtain adequate compensation: it is agreed that, in all such cases, full and complete

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compensation shall be made by the Government of the United States.

That, for the purpose of ascertaining the amount of any such losses and damage sustained either by citizens of the United States or of the French Republic, five Commissioners shall be appointed and authorized to meet and act in the following manner, viz :

When the five Commissioners thus appointed shall first meet, they shall, before they proceed to act, respectively take the following oath or affirmation, in the presence of each other ; which oath or affirmation, being so taken and duly attested, shall be entered on the records of their proceedings, viz :

I, A B, one of the Commissioners appointed in pursuance of the second article of the treaty of —, between the French Republic and the United States of America, do solemnly swear or affirm that I will honestly, diligently, impartially, and carefully examine all such complaints as, under the said article, shall be preferred to the said Commissioners, and the same will decide to the best of my judgment, according to the rules and principles of decision expressed and contained in the said treaty of —. I will, also, in like manner, examine all such complaints as, under the fifth article of said treaty, shall be preferred to the said Commissioners, and will decide them to the best of my judgment, according to justice and equity ; and that I will forbear to act as Commissioner in any case in which I am personally interested.

Two years, from the day on which the Commissioners shall form a Board, and be ready to proceed to business, are assigned for receiving complaints and applications ; but the Commissioners are nevertheless authorized, in any particular case in which it shall appear to them reasonable and just, to extend the said term of two years for any term not exceeding six months after the expiration thereof. The Commissioners shall be appointed, and meet at —, within six months from the ratifications of this treaty by the respective Governments, and as much sooner as may be.

The Commissioners, in examining the complaints and applications so preferred to them, shall have power to examine all such persons as shall come before them, on oath or affirmation, touching the premises ; and also to receive in evidence, according as they may think most consistent with justice and equity, all written depositions, or books, or copies, or extracts thereof ; every such deposition, or book, or paper, or copy, or extract, being duly authenticated, either according to the legal forms now existing in the two countries, or in such other manner as the said Commissioners shall see cause to require or allow. They shall not, in examining claims under this article, be concluded either as to law or facts by any judicial decision, sentence, or decree, which has been had or rendered therein : and they shall decide the claims in question according to the original merits of the several cases, and to justice, equity, and the law of nations ; and in all cases of complaint existing prior to the 7th

of July, 1798, according to the treaties and consular convention then existing between France and the United States.

The award of said Commissioners, or any Board of them, as hereinbefore provided for, shall be final and conclusive as to the justice of the claim, and the amount of the sum to be paid to the creditor or claimant. And they shall comprehend, when in favor of a claimant, a reasonable allowance of interest on the original losses or damage, computed up to the time when the award is to be performed.

And it is also further agreed, that not only the now existing cases, of all the descriptions before named, but all such as shall exist at the time of exchanging the ratifications of this treaty, shall be considered as being within the provisions, intent, and meaning of this article.

ART. 3. The French Republic, desirous, in an adjustment of differences with the United States, to give them a proof of her liberality, by waiving formal exceptions, and narrowing the ground of discussion, does agree that such claims of the citizens of the United States for compensation as shall be in other respects fair and equitable, shall not be prejudiced by reason of not having on board their vessels, when captured, any other passport or sea-letter than such as had been usually furnished by their Government prior to the 2d day of March, 1797, or any other ship's *rôle d'équipage*, or other shipping paper, than had been generally used by the citizens of the United States prior to that date ; nor shall their claims be prejudiced by reason of having on board their vessels, when captured, merchandise, the manufacture or production of any particular country or place.

ART. 4. Any sum which shall be awarded by the said Commissioners, pursuant to the second article of this treaty, in favor of a claimant, a citizen of the United States, the Government of the French Republic will, on the condition of such releases or assignments, to be given by him, as the said Commissioners may direct, cause to be paid to such claimant, in silver or gold coin, without deduction, at Paris, within three months after the date of the award ; or will then cause the sum so awarded to be converted into transferable stock or capital, bearing interest at the rate of six per cent. per annum ; which interest and principal the said Government will cause to be paid in silver or gold coin, without deduction, to such claimant, or his transferee at Paris, viz : the interest annually, and the principal by three equal instalments, viz : one-third in three years, one-third in five years, and the remaining third in seven years from the date of the award. The form of the security or securities, and the mode of transfer, to be such as the said Commissioners shall prescribe : and any sum which shall be so awarded in favor of a claimant, a citizen of the French Republic, the Government of the United States will, within six months after the date of the award, upon like condition, and in like manner and time, cause to be paid, or secure to be paid, to such claimant, or his transferee, at the city of Washington.

ART. 5. And whereas complaints have been

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made by divers merchants and others, citizens of the United States, that the French Government is indebted to them, by contract, in considerable sums, for provisions and other property received from them in France and other places within the jurisdiction or dominions of the said Republic, and for freight and use of their vessels to transport provisions and other property, and prisoners, all since the commencement of the war in which the French Republic is now engaged, for a part of which debts they hold certificates and bills, issued and drawn by officers and agents of the Republic, payable in France and in other places; and that, although they have used due diligence, it has never been in their power to obtain payment of said debts, certificates, or bills: it is agreed that, in such cases, the claimants may, if they see fit, prefer their claims to the Commissioners provided in the second article, who are authorized to proceed respecting the same as to the time of their reception, mode of examination, and admission of evidence, and generally, in other respects, as is prescribed for the claims there specified; and they shall decide them according to justice and equity.

The award of the Commissioners, in such cases, or any Board of them, as is provided in the second article, shall be final and conclusive, both as to the justice of the demand and the amount of the sum to be paid to the creditors or claimants: and, when in favor of claimants, they shall comprehend interest from the times, respectively, at which the debts ought, according to the tenor or nature of the contract, to have been paid, at the rates respectively stipulated therein; or, where none was specially stipulated, at such rate, in each case, as the Commissioners shall judge to be just. But it is understood that no person, by omitting to prefer such, his claim, to the said Commissioners, shall thereby impair his right to seek and obtain payment by any other means.

Whatever sum shall be awarded in favor of any claimant under this article, the Government of the French Republic will, in three months after the date of the award, on condition of such releases or assignments to be given by him as the said Commissioners may direct, cause to be paid to him, without deduction, in gold or silver coin, at Paris, or will then convert the same into transferable stock or capital, bearing an interest at the rate of six per cent. per annum; which interest and principal the said Government will cause to be paid, without deduction, in gold or silver coin, to such claimant, or his transferee at Paris, viz: the interest annually, and the principal by three equal instalments, viz: one-third in two years, one-third in four years, and the remaining third in six years from the date of the award. The form of the security or securities, and the mode of transfer to be such as the said Commissioners shall prescribe.

ART. 6. It is further agreed that the Commissioners mentioned in this and the preceding articles shall be respectively paid in such manner as shall be agreed between the two nations; such agreement being to be settled at the time of the exchange of the ratifications of this treaty; and

all other expenses attending the said Commissioners shall be defrayed jointly by the two parties; the same being previously ascertained and allowed by a majority of the Commissioners: and in case of death, sickness, or necessary absence, the place of every such Commissioner, respectively, shall be supplied in the same manner as such Commissioner was first appointed; and the new Commissioner shall take the same oath or affirmation, and do the same duties.

[Explanatory Note.]

The Ministers Plenipotentiary of the French Republic will please to observe that a blank is left for the insertion of such claims of the citizens of the Republic on the United States as the Ministers may think proper to bring forward. A blank is also left for the mode of selecting the five proposed Commissioners, and another for the manner in which they shall be organized; for the filling of which two last the Envoys of the United States are preparing propositions, which will be sent in a day or two. A blank is also left for the title of the treaty, of which the proposed articles, if agreed to, may form a part.

APRIL 18.

The views of the French Government being in some measure developed in the preceding correspondence, and the negotiation having now assumed some form, it was thought proper to advise the Government of the United States of the progress and state of the business. The following letter was therefore written to the Secretary of State; duplicates and triplicates were also afterwards forwarded:

PARIS, April 18, 1800.

SIR: Your despatches of the 6th and 20th of January reached us some time since, as did also their duplicates and triplicates.

We all met here the 2d of March, Mr. Murray having arrived the evening before. The papers marked from A to V, which we have the honor to enclose, trace the circumstances connected with our mission, which have since taken place.

On the 5th of March, we waited on the Minister of Exterior Relations, delivered copies of our letters of credence, and requested to be informed at what time we should have an audience of the Premier Consul. He observed that, in cases like ours, it was usual to postpone the audience till the negotiation was finished. We replied that, should we be honored with one before the negotiation commenced, we thought its effects would be favorable. Mr. Talleyrand then said that he supposed there would be no difficulty on that point, and that he would speak to the Premier Consul about it.

On the 8th of March, agreeably to the notification which we had in the meantime received, we attended, and had an audience of the Premier Consul at the palace of the Tuilleries, and delivered him our letters of credence. We were received with the respect due to the character which we had the honor to bear. The audience was a

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public one, and was attended by the two other Consuls, the Ministers of the Government, members of the Council of State, general officers, and the Ministers of foreign Powers. After the compliments usual on such occasions had passed, Mr. Talleyrand informed us that a commission of three Ministers Plenipotentiary had been appointed to negotiate with us, and that we should receive a note from him officially notifying us of that appointment; which we accordingly received in the evening of the same day.

The illness of Mr. Joseph Bonaparte, President of the French Commission, prevented our meeting with them for the exchange of powers till the 2d instant; and the time till the 7th was also lost in obtaining such further powers as were satisfactory to us. Since that day you will perceive that the negotiation has made some progress; and will doubtless also perceive, that there has been, on our part, due solicitude to give it facility.

Our note of yesterday, sent to-day, was accompanied with six articles covering the whole ground of individual claims, and formed for a treaty; but there has not been time to prepare a copy for this despatch. It is understood that the campaign has opened between Austria and France, on the side of Italy.

We have the honor to be, sir, with high respect, your obedient humble servants,

OLIVER ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

P. S. We shall be hard pressed to revive the old treaty, so far, at least, as to save its anteriority.

APRIL 21.

The Envoys being extremely desirous of forming the Board of Commissioners for adjusting the claims in some manner that might avoid the inconveniences which have resulted from the mode prescribed in the sixth and seventh articles of the Treaty of Amity and Commerce between the United States and Great Britain, had retained that part of the subject under consideration till the 21st of April; when, after the discussion of several projects, they finally agreed that, under all circumstances, the mode adopted in the above treaty was the least exceptionable, and transmitted the following note to the French Ministers:

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

PARIS, April 21, 1800.

CITIZEN MINISTERS: The undersigned requests that the blanks in the articles which they had the honor to send you under the date of the 17th May, be filled as follows, viz: that left for the mode of selecting the five Commissioners with these words: "Two of them shall be appointed by the Premier Consul of the French Republic, two of them by the President of the United States, by and with the advice and consent of the Senate thereof, and the fifth by the unanimous voice of the other four; and, in case they should not agree in such choice,

the Commissioners named by the two parties shall respectively propose one person; and of the names so proposed, one shall be drawn by lot in the presence of the four original Commissioners." That left for the organization of a board, with these words: "Three of said Commissioners shall constitute a board, and shall have power to do any act pertaining to said commission, provided that one of the Commissioners on each side, and the fifth Commissioner, shall be present."

And that the sentence which contains a blank for the place of their meeting, may be so completed as to read thus: "The Commissioners shall be appointed, and meet at Paris, within six months from the ratification of this treaty by the respective Governments, and as much sooner as may be; but they shall have power to adjourn from place to place, as they shall see cause." Accept, &c.

OLIVER ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

PARIS, 3d Floreal, (April 22,) year 8.

The Ministers Plenipotentiary of the French Republic have received the note which the Envoys Extraordinary and Ministers Plenipotentiary of the United States have done them the honor to address to them the 17th of April, as well as the supplementary note of the 21st.

They have been engaged, since that time, in preparing a reply; and, as soon as their observations shall be reduced to writing, they will hasten to transmit them to the American Ministers.

They pray the Ministers Plenipotentiary of the United States to accept the assurance of their high consideration.

J. BONAPARTE,
FLEURIEU,
RÖDERER.

MAY 6, 1800.

The following note was received to-day from the French Ministers:

PARIS, 16th Floreal,
(6th May) year 8.

The Ministers Plenipotentiary of the French Republic coincide with the Envoys Extraordinary and Ministers Plenipotentiary of the United States, in viewing the communication of their project of a treaty as a frank mode of leading to the discussion of principles which should guide the negotiation and promote its object.

The object of the negotiation is to restore the harmony and cement the friendship formerly subsisting between the two nations.

The principles, with which the undersigned conceive it necessary to commence, are those which can determine the true sense of the mutual obligations, the real or supposed infraction of which has caused a misunderstanding between the respective Governments.

The liquidation and discharge of the damages which may have resulted, either to the two nations or to their citizens, from this momentary

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misunderstanding, can only be considered as a consequence of the interpretation which, by common consent, shall be given to ancient treaties, as a proof of a sincere return to the primitive relations of the two nations, and as a pledge for the oblivion of those events by which the former relations have been disturbed.

The communication of this project, by the Ministers of the United States, has, therefore, a tendency to remove the obstacles which lie in the way between the object to which it is proposed to arrive and the principles with which it is proper to set out.

No doubt exists respecting the object to which the desires and interests of both nations are directed.

The Ministers, respectively, are also agreed on the expediency of providing a suitable indemnity.

The discussion, then, is now restricted to two points, viz: 1st. What are the principles which ought to have governed, and which ought still to govern, the political and commercial relations of the two nations? 2d. What is the mode, the best adapted to their respective interests, by which the ascertained indemnities shall be liquidated and discharged?

The examination of the principles ought to precede the consideration of the mode of indemnification: since, on the one hand, an indemnity cannot result except from an admitted contravention of an acknowledged obligation; and, on the other, it is only an agreement founded upon principles that can insure peace and maintain friendship.

The Ministers of the French Republic would, for this reason, have seized the present moment to develop their views respecting the various interpretations which, for years past, have been given to the treaties, if, upon reading the 2d article of the project which has been submitted, they had not been struck with an interpretation of which they can conceive neither the cause nor the object, and which, therefore, seems to require explanation. The words which contain it relate to the arbitrators to be appointed for the liquidation of damages. "They shall decide (says the project) the claims in question, according to the original merits of the several cases, and according to justice, equity, and the law of nations; and, in all cases of complaint, existing prior to the 7th July, 1798, according to the treaties and consular convention then existing between France and the United States."

The Ministers Plenipotentiary of the French Republic are not aware of any reason which can authorize a distinction between the time prior to the 7th of July, 1798, and the time subsequent to that date, in order to apply the stipulations of treaties to the damages which have arisen during the first period, and only the principles of the laws of nations to those which have occurred during the second.

The commission of the Ministers Plenipotentiary of the French Republic has designated the Treaty of Alliance, and of Friendship and Commerce, and the Consular Convention, as the sole basis of their negotiations. Upon these acts the

misunderstanding has arisen; and upon these acts it seems proper that union and friendship should be re-established.

In hastening to recognise the principle of compensation, it was the intention of the undersigned to exhibit an unequivocal proof of the fidelity of France to her ancient engagements; all pecuniary stipulations appearing to her proper as results from ancient treaties, not as preliminaries to a new one. The undersigned pray, &c.

BONAPARTE,
FLEURIEU,
RÖDERER.

P. S. We have the honor to transmit herewith the acts which show the earnestness with which the Government desires to remove the causes of irritation which have heretofore existed.

MAY 7.

A conference was held to-day for the purpose of agreeing upon the draught of answer; and, as the French Ministers had acceded to the general proposition of mutual compensation and indemnity, in their note of the 19th Germinal, (9th of April,) and had again recognised the principle in their note of the 16th Floreal, (6th of May,) connected with certain discussions, and the ulterior adjustment of the existing differences in a treaty, the Envoys were of opinion that they would facilitate the arrangements as to the preliminary object, and avoid the waste of time, in the discussion of general abstract principles, by sending the entire project of a treaty which they had then prepared. By these means, they hoped to fix the attention of the French Ministers to the real objects of difference, and press the business forward with a degree of certainty that would mark the progress of the negotiation; and, therefore, the next day, the 8th of May, forwarded the answer which follows, of that date, accompanied by the remaining part of their project of a treaty, from article 7 to article 36, inclusive:

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

PARIS, May 8, 1800.

CITIZENS MINISTERS: The undersigned have been honored with your note of the 16th of Floreal. They readily assign the reason why it was proposed by them that the treaties and consular convention, made between France and the United States, should be the rule of decision on the claims of their respective citizens, only with respect to causes of complaint which arose prior to the 7th July, 1798, leaving their subsequent causes of complaint to rest upon the law of nations; and also the reason why they cannot regard those treaties as the basis of the present negotiation for any other purpose than that of giving a rule by which causes of complaint, prior to the period above mentioned, are to be tested.

It was not till after the Treaty of Amity and Commerce, of February, 1778, had been violated to a great extent on the part of the French Re-

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public, nor till after explanations and an amicable adjustment, sought by the United States, had been refused, that they did, on the 7th day of July, 1798, by a solemn public act, declare that they were freed and exonerated from the treaties and consular convention which had been entered into between them and France. Nor would such declaration, though justified by the law of nature and of nations, have even then been made, if it had been possible for the United States, while continuing the treaties and consular convention as the rule of their conduct, to guard against injuries which daily increased, and threatened their commerce with total destruction. That declaration cannot be recalled; and the United States must abide by its effects, with respect to the priority of treaties, whatever inconveniences may result to themselves. Their Government, it was understood, could not, with good faith, give to the undersigned powers to change or effect such priorities, and they do not possess them.

The undersigned deem it unnecessary at present to enumerate the acts of the French Government which produced the above measure. The principles of those decrees are as well understood, and now as fully acknowledged, as the mischiefs they have generated: and, as the object of this negotiation is to produce the reconciliation, and to cement the ancient friendship of the two nations, such a painful recapitulation would, at this time, answer no valuable purpose. They are, therefore, still of opinion that the views of the respective Ministers should be directed to the object of terminating their differences in such a manner as, without a specific and detailed discussion on the merits of the respective complaints, might, by the adoption of plain and acknowledged principles of justice, produce mutual satisfaction and a permanent good understanding.

The undersigned recognise the principle that a right to indemnification can result only from the violation of a known obligation; and they conceive it to be equally incontrovertible that the law of nations constitutes such an obligation where treaties do not exist. They have not understood that the principle of compensation, proposed by them, was admitted without a supposition that the other points would be satisfactorily arranged; yet they trust that satisfying the demands of justice will always be considered as the wisest of political expedients.

The questions what are to be the political, and what the commercial relations of the two countries, have had the consideration, so far as the undersigned have been able to bestow it, which questions of such high and extensive import deserve.

For an answer to the first, they refer to their project of a treaty; and it is scarcely necessary to add that the interest of the United States, while it prompts them strongly to cultivate a good understanding with France, forbids them to wish such relations to any Power as might involve them in the contests with which Europe is so often scourged. They wish not even to afford in their ports, beyond the rights of hospitality, an

asylum for privateers, which obstructs their commerce, and too easily entangles them in the conflicting passions and interests of the belligerent Powers.

It is true, however, that the engagements of the United States do not, as yet, permit them to pursue their policy, with respect to privateers, to its full extent. Those of one nation have a right of asylum in their ports, but it is a right which may cease in two years after the present war with Great Britain. Nor is it conceived to be very interesting to the French Republic during the present war, which is presumed to draw near to an honorable termination, to whose prizes and privateers the ports of the United States may, in the meantime, be most open, as few or none of her merchantmen now pass that coast to be exposed, and as few or none of her enemies pass it without convoys too strong for privateers.

For an answer to the other question, what is to be the commercial relation of the two nations, the undersigned refer particularly to the thirteenth article of their project, which they have endeavored to accommodate, not only to the existing circumstances, but to the future hopes of both nations.

It is seen that this article goes further than the colonial and monopolizing systems of Europe have admitted an experiment of; but it is hoped that the period approaches when nations will cease to interpose those barriers and restraints upon commerce, which, besides checking industry and enterprise, diminish the value of everything they have to sell, and enhance the price of everything they purchase.

As to an unembarrassed intercourse between the United States and French West India islands, in particular, nothing could more happily, or perhaps more justly, efface from the recollection of the former their sufferings in that quarter; and certainly nothing would sooner restore the latter to productiveness and utility. They need only, in addition to order, facility of supplies and sales for a few years for their complete re-establishment, and even to carry them to a height of prosperity which the neighboring islands could not rival.

Reserving to the Republic, exclusively, her coasting trade, and the direct trade between France and her colonies, and to the United States their coasting trade, and leaving each nation to encourage also, by a reduction of duties to a limited extent, the use of their own ships, is presumed sufficient so to raise the marines of both, (which, fortunately, can rise without being objects of mutual jealousy,) as to insure a reasonable share of the privileges of the ocean.

And, lastly, it will not be an objection to this article, that, while it proposes to invigorate the commerce of France, it promises also extension and activity to that of the United States; because, it is well understood, that every depression which the commerce of the latter feels, and every risk to which it is subjected, profit only the enemies of the former, by augmenting their carrying trade, and increasing their naval power.

With this note, the undersigned have the honor

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to transmit the remaining part of a project, which, together with what has been transmitted, discloses fully their views, and will, as they hope, facilitate the progress of the negotiation. Accept, &c.

OLIVER ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

P. S. The Envoys of the United States have not had the pleasure to receive the copies referred to in the postscript of the note to which the above is an answer.

ART. 7. All citizens and inhabitants of either nation, detained within the jurisdiction of the other, for any cause, except for debt or crimes committed within the same, shall be immediately set at liberty. All ships of war, or other public ships, which either nation has taken from the other, and detains, shall be given up; or where that cannot without difficulty be done, the full value shall be restored; and the value, if not agreed between the parties, shall be ascertained by the Commissioners mentioned in the second article.

And it is further agreed that, if the armed ships of the United States have retaken and set free from the ships of war or other public ships of the French Republic, any prizes which they had captured from her enemies, the United States will make compensation to the French Republic for the prizes so liberated. Claims for the same may be preferred to the said Commissioners, who shall decide them according to justice and equity; and any sum or sums which they may award in satisfaction of such claims, the Government of the United States will cause to be paid, or secured in the same manner as is provided in the second article in the case of claims of the citizens of the French Republic. And, as well all cases of either of the descriptions aforesaid which shall exist at the time of exchanging the ratifications of this treaty, as those which now exist, shall be considered within the intent and meaning of this article.

ART. 8. The citizens and inhabitants of the United States shall be exempted in the French Republic from the *droit d'aubaine*, or other similar duty, under whatever name; and the citizens and inhabitants of both nations, may, by testament, donation, or otherwise, dispose of their real estates already acquired, and of their goods and effects; and their heirs or representatives, being citizens of one of the parties, and residing in either nation, or elsewhere, may succeed to them, even *ab intestato*, without being obliged to obtain letters of naturalization, and without having the effect of this provision contested or impeded under any pretext whatever; and their heirs or representatives shall receive such estate, or goods and effects, either in person, or by attorney or substitute; and if the heirs or representatives to whom such succession or devise, and goods or effects may have fallen, shall be minors, the guardian, tutor, curator, or executor established by the testament, or by the domiciliary laws of the country, whereof such minor shall be a citizen or inhabitant, may direct, administer, and alienate the es-

tate or goods so fallen to such minors; and, in general, in relation to such estate and goods, use all the rights and fulfil all the functions which belong by the disposition of the laws to such guardian, tutor, curator, or executor. The inheritances, as well as the goods and effects which the said citizens or inhabitants, in changing their abode, shall be desirous of removing from the place of their abode, shall be exempted, with respect to each, from all duty whatever. But it is at the same time agreed, that this article shall in no manner derogate from the laws which either State may have now in force, or may hereafter enact, to prevent emigration. Provided, also, that if the laws of either country should at any time be incompatible with the inheritance or devise of real estate by and to aliens, it is agreed that such real estate may be sold, or otherwise disposed of, to citizens or inhabitants of the country where it may be.

ART. 9. Neither the debts due from individuals of the one nation to individuals of the other, nor shares, nor moneys which they may have in public funds, or in the public or private banks, shall ever, in any event of war, or national difference, be sequestered or confiscated.

ART. 10. And whereas, debtors may flee from the territories of one of the contracting parties to those of the other, it is agreed that the creditors, being citizens or inhabitants of either nation, may pursue such debtors, whether they be citizens or inhabitants, or not, of either country, and shall have the benefit of the laws of the country to which such debtors may flee, on the one side and on the other, in the same manner as if the debt or cause of action had arisen or been therein contracted.

ART. 11. And it is further agreed that the Governments of both nations, on requisitions by them respectively made, or by their respective Ministers, Consuls, or other officers authorized to make the same, will deliver up to justice all persons, who, being charged with murder or forgery, committed within the territories of the party making the requisition, shall seek an asylum within any of the territories or dependencies of the other; provided, that this shall only be done on such evidence of criminality, as, according to the laws of the nation where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial, if the offence had been there committed; the expense of such apprehension and delivery shall be borne and defrayed by those who make the requisition and receive the arrested fugitive.

ART. 12. To favor commerce on both sides, it is agreed that, in case a war should break out between the two nations, (which God forbid!) the term of six months after the declaration of war, shall be allowed to the merchants, and other citizens and inhabitants, respectively, on one side and the other, in order that they may withdraw with their effects and moveables, which they shall be at liberty to send, carry away, or sell, where they please, without the least obstruction; nor shall their effects, much less their persons, be seized

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during such term of six months; on the contrary, passports, which shall be valid for a time necessary for their return, shall be given to them for their vessels and the effects which they shall be willing to send away or carry with them; and such passports shall be a safe conduct against all insults and prizes, which privateers may attempt against their persons or effects. And if anything be taken from them, or any injury done to them or their effects by one of the parties, their citizens, or inhabitants, within the time above prescribed, full satisfaction shall be made to them on that account.

ART. 13. And for the purpose of more effectually maintaining a good correspondence, and facilitating commerce between the citizens of the two nations, it is agreed, on the part of the United States, that the merchant ships and vessels of the French Republic may freely enter, lade and unlade, at such convenient port or ports in each of the United States situate on the ocean, as shall for that purpose be designated by the laws of the United States, and until such designation shall be made, at any of the ports of the same where foreign ships and vessels are now permitted to enter; and may, at all times, enter, lade, and unlade at any port in the said States, at which ships and vessels of the most favored nation shall be permitted to do the same.

The citizens of the French Republic may import in such ships and vessels, and freely dispose of all merchandises, without exception, of the manufacture, growth, or produce of any part of the territories or dominions of the French Republic, or of the produce of her fisheries, and also all merchandises of the manufacture, growth, or produce of any foreign country or place, the importation of which shall not be prohibited in ships and vessels of the United States; and they may export in such ships and vessels to any country or place out of the United States, all merchandises, the exportation of which shall not be prohibited in ships and vessels of the United States. There shall be paid on such ships and vessels in the ports of the United States, no other or higher duty than shall be paid on the ships and vessels of the most favored nation, nor any other or higher duty than a tonnage duty, not exceeding fifty cents per ton of the ship or vessel; and such duties or fees, on papers obtained from any office of the port, as the citizens of the United States shall pay in like cases.

No duties shall be paid on the exportation in such ships and vessels of any merchandise whatever; nor shall any other or higher duty be paid on the importation in such ships and vessels, of any merchandise, than the most favored nation shall pay in like cases; nor any other or higher duty than shall be paid on the importation of like merchandise in the ships and vessels of the United States; except that there may be exacted a duty less, by any proportion not exceeding one-eleventh part, on importations in their own ships and vessels than on importations in any other ships or vessels whatever; and except, also, that there may be exacted such duties on teas imported

in the ships and vessels of the French Republic, as shall be paid on teas imported in the ships and vessels of the most favored nation.

The ships and vessels of the French Republic shall be permitted, when it shall be convenient for them, both to lade and unlade by parcels, at different ports in the United States, conforming to such regulations as the laws of the country shall prescribe to prevent frauds in the revenue. But they shall not unlade in any port of the United States what they have laded in any other port of the same, except in cases of distress, and shall then only be permitted to sell so much of what they have laded, as may be necessary for the repairs of the ship or vessel, and the prosecution of the voyage.

And it is also agreed, on the part of the French Republic, that the merchant ships and vessels of the United States may freely enter, lade, and unlade at such convenient port or ports in every part of the territories or dominions of the French Republic in any quarter of the world, as shall, for that purpose, be designated by the laws of the Republic; and until such designation shall be made, at all the ports in the said territories or dominions where the ships or vessels of the French Republic are now permitted to enter from the sea; and they may at all times enter, lade, and unlade at any ports within the said territories or dominions, at which ships or vessels of the most favored nation shall be permitted to do the same.

The citizens of the United States may import, in such ships or vessels, to every part of the said territories or dominions, and freely dispose of all merchandises, without exception, of the manufacture, growth, or produce of the United States, and of the produce of their fisheries; and also all merchandises of the manufacture, growth, or produce of any foreign country or place, the importation of which shall not be prohibited in ships and vessels of the French Republic. And they may export in such ships and vessels, from every part of the said territories or dominions, to any country or place out of the same, all merchandises whatever, the exportation of which shall not be prohibited in ships and vessels of the said Republic.

There shall not be paid on such ships and vessels, in any port in the territories or dominions of the French Republic, any other or higher duty than shall be paid at such port on the ships and vessels of the most favored nation; nor any other or higher duty than a tonnage duty of fifty-three sols per ton of the ship or vessel, and such duty or fees on papers obtained from any office of the port as the citizens of the French Republic shall pay in like cases.

No duties shall be paid on the exportation in such ships and vessels from any port in the said territories or dominions of any merchandise whatever; nor shall any other or higher duty be paid on the importation in such ships and vessels, to any part of the said territories or dominions, of any merchandise whatever, than the most favored nation shall pay in like cases; nor any other or higher duty than shall be paid on the importation

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of like merchandises in ships and vessels of the French Republic, except that there may be exacted a duty less, by any proportion not exceeding one-eleventh part, on importations in ships and vessels of the said Republic, than on importations in any other ships and vessels whatever; and except, also, that there may be exacted such duties on teas imported in ships and vessels of the United States as shall be paid on teas imported in the ships and vessels of the most favored nation.

The ships and vessels of the United States shall be permitted, when it shall be convenient for them, both to lade and unlade, by parcels, in different ports throughout the territories or dominions of the French Republic, conforming to such regulations as the laws of the country shall prescribe to prevent frauds in the revenue; but they shall not unlade in any port within the said territories or dominions what they have laded at any other port within the same, except in cases of distress; and shall then only be permitted to sell so much of what they had so laded as may be necessary for the repairs of the ship or vessel, and for the prosecution of the voyage.

ART. 14. The citizens of each party, respectively, shall have free admission into the dominions of the other, with liberty to reside there, to hire houses and warehouses, for the purposes of trade and commerce; and complete protection and security for the merchants and traders, citizens of either party, with their goods and effects, whether in going to, residing in, or retiring from the dominions, or from one part thereof to another of the other, shall be given. It shall be lawful for them, on either side, to employ such advocates, attorneys, notaries, solicitors, factors, brokers, and interpreters, without being obliged to employ either, as they shall think proper; and it shall be wholly free for all merchants, commanders of ships and vessels, citizens of either party, in every place subject to the jurisdiction of the other, to direct and manage their own affairs and business; and, in relation to the loading or unloading of their vessels, and everything which has relation thereto, they shall not be obliged, though they may, if they please, to employ any persons but those of the crew of the vessel.

ART. 15. The ships of the citizens of the respective countries coming upon any of the coasts belonging to either of the parties, but not willing to enter into port, or, being entered into port, and not willing to unlade their cargoes or break bulk, shall not be obliged to give an account of their lading, unless they are suspected, upon sure evidence, of carrying prohibited goods, called contraband, to the enemies of either of the two contracting parties; but shall be subject, nevertheless, to such regulations in the port as may be prescribed by the government of the place.

ART. 16. In case the citizens of either party, with their shipping, whether they be public, and equipped for war, or private, and employed in commerce, be forced, through stress of weather, pursuit of pirates or enemies, or any other urgent necessity for seeking of shelter and harbor, to retract and enter into any of the rivers, creeks, bays,

ports, roads, or shores belonging to the other party, they shall be received with all humanity and kindness, and enjoy all friendly protection and help; and they shall be permitted to refresh and provide themselves, at reasonable rates, with victuals, and all things needful for the sustenance of their persons, or reparation of their ships; and they shall be allowed to break bulk, and unlade and sell, conformably to the orders and regulations of the government of the place, so much of the cargo as may be necessary to defray their expenses, without being obliged to pay any duties whatever, except only on such articles as they may be permitted to sell for the purposes aforesaid; and they shall no ways be detained or hindered from returning out of the said ports or roads, but may remove and depart when and whither they please, without any let or hindrance.

ART. 17. If any ship belonging to either of the parties, or their citizens, shall be wrecked, foundered, or otherwise damaged, the same protection and assistance shall be given to the persons shipwrecked, or such as shall be in danger thereof, or be otherwise distressed, as would be afforded in like cases to the inhabitants of the country on whose coast such misfortune may happen; and letters of safe conduct shall likewise be given to them, when required, for their free and quiet passage from thence, and their return to their own country.

ART. 18. It is likewise agreed that deserters from the public and private vessels of either nation shall be arrested and delivered up, on application made, according to the orders and regulation of the government of the place where such deserters shall be, by the Consul, Vice Consul, or agent of the nation of which such deserter may be a citizen; and suitable provisions shall be made by law, in each country, for that purpose; and not only the original enlistment, shipping-paper, or *rôle d'équipage*, but a copy or extract, certified to be conformable to the original, by a judge of the country in which the vessel may be, or from which she may have departed, shall also be admitted in proof of desertion; and such extract or copy shall have in all the ports of the respective Powers the same force with the original, for six months: And it is further agreed that the masters and commanders of vessels, public or private, of one nation, in the country of the other, may engage and receive on board seamen and others, natives or inhabitants of the country to which the vessels belong: *Provided*, That, either on one side or the other, they shall not be at liberty to take into their service such of their countrymen (deserters excepted) as may have already engaged in the service of the other party, whether they meet them by land or by sea, unless the captains or masters under whose command such persons may be found will voluntarily discharge them from their service.

ART. 19. Neither of the said parties shall permit the ships or goods belonging to the citizens of the other to be taken within cannon-shot of the coast, nor in any of the bays, ports, or rivers of their territories, by ships of war, or others having

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commissions from any foreign State or Prince; but, in case it should so happen, the party whose territorial rights shall thus have been violated, shall use his utmost endeavors to obtain from the offending party full and ample satisfaction for the goods and vessel or vessels so taken, whether the same be vessels of war or merchant vessels.

ART. 20. It shall be lawful for the citizens of either country to sail with their ships and merchandise (contraband goods always excepted) from any port whatever, to any port of the enemy of the other, and to sail and trade with their ships and merchandise with perfect security and liberty, from the countries, ports, and places of those who are enemies of both, or of either party, without any opposition or disturbance whatsoever; and to pass, not only directly from the places and ports of the enemy aforementioned, to neutral ports and places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they be under the jurisdiction of the same Power, or under several; unless such ports or places shall be actually blockaded, besieged, or invested.

And whereas, it frequently happens that vessels sail for a port or place belonging to an enemy, without knowing that the same is either besieged, blockaded, or invested, it is agreed that every vessel so circumstanced may be turned away from such port or place, but she shall not be detained, nor any part of her cargo, if not contraband, be confiscated, unless after notice she shall again attempt to enter; but she shall be permitted to go to any other port or place she may think proper; nor shall any vessel of either, that may have entered into such port or place, before the same was actually besieged, blockaded, or invested by the other, be restrained from quitting such place with her return cargo; nor, if found therein after the reduction or surrender of such place, shall such vessel or her cargo be liable to confiscation, but they shall be restored to the owners or proprietors thereof.

ART. 21. In order to regulate what is in future to be esteemed contraband of war, it is agreed that, under the said denomination, shall be comprised gunpowder, saltpetre, petards, match, ball, bombs, grenades, carcasses, cartridge-boxes, pikes, halberds, swords, belts, pistols, holsters, cavalry saddles and furniture, cannon, mortars, their carriages and beds, and, generally, all kinds of arms and instruments fit for the use of troops. All the above articles, whenever they are destined to the port of an enemy, are hereby declared to be contraband, and just objects of confiscation; but the vessel in which they are laden, and the residue of the cargo, shall be considered free, and not in any manner infected by the prohibited goods, whether belonging to the same or a different owner.

ART. 22. It is agreed that in all cases where vessels shall be captured or detained on just suspicion of having on board enemy's property, or of carrying to the enemy any of the articles which are contraband of war, the said vessel shall be brought to the nearest or most convenient port of the country to which the captor belongs; and if any property of an enemy should be found on

board such vessel, that part only which belongs to the enemy, or which consists of articles contraband of war, destined as aforesaid, shall be made prize, and the vessel shall be at liberty to proceed with the remainder, without any impediment; and a reasonable freight shall be paid by the captor on such property of the enemy as shall be made prize. And it is agreed that all proper measures shall be taken to prevent delay in deciding the cases of ships or cargoes so brought in for adjudication, and in the payment or recovery of any indemnification adjudged or agreed to be paid to the masters or owners of such ship: Nevertheless, it is agreed that such effects and merchandises, even though the property of an enemy, as were put on board before the declaration of war, or — months after it, shall not be in any manner subject to confiscation, but shall be faithfully and specifically restored to be carried to their place of destination: *Provided, notwithstanding*, That if such merchandise be contraband, destined as aforesaid, it shall not be in anywise lawful to carry them afterwards to a port belonging to an enemy; and, also, that if there shall be found on board the vessel of an enemy, captured by either party or its citizens, any property of the other party, or of its citizens, the same shall not be confiscated, but freely restored to the owners or proprietors thereof.

ART. 23. And that captures on light suspicions may be avoided, and injuries thence arising prevented, it is agreed that, in case either of the parties should be engaged in a war, the ships and vessels belonging to the citizens of the other shall be furnished with sea-letters or passports, expressing the name, property, and bulk of the ship, as also the name and place of habitation of the master or commander of the said ship, that it may appear thereby that the ship really and truly belongs to the citizens of one of the parties; which sea-letter or passport shall be made out and granted according to the form annexed to this treaty; they shall likewise be renewed every year, that is, if the vessel should return home within the space of a year. It is likewise agreed that such ships, being laden, are to be provided not only with passports, as above mentioned, but also with certificates containing the several particulars of the cargo, the place from whence the vessel sailed, and whither she is bound, that so it may be known whether she carries any of the contraband goods specified in the twenty-first article of this treaty; which certificates shall be made out in the accustomed form of the country from whence the vessel sailed; and neither party shall require the exhibition of any papers or documents (the sea-letter and certificates aforementioned excepted) not required by the laws or usages of the party to whose citizens the vessels and their cargoes belong, nor in any other form than the laws and usages of such last mentioned party shall prescribe. And it is expressly stipulated and agreed, that, when the quality of the ship, goods, and master sufficiently appear from the passport and certificates aforesaid, it shall not be lawful for the commanders of armed vessels to exact any further proof, under any pretext whatever; and that when any

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merchant ship shall not be provided with such passport and certificates, such case may be examined by a proper judge or tribunal; and if it shall be found from other documents or proofs that the vessel truly belongs to the citizens of one of the parties, it shall not be confiscated, but shall be released with its cargo, (enemy's property and contraband goods, as aforesaid, excepted,) and be permitted to proceed on its voyage.

If the master of the ship named in the passport should happen to die, or be removed by any other cause, and another put in his place, the ship and goods laden thereon shall, nevertheless, be equally secure, and the passport remain in full force.

ART. 24. If the ships of the citizens of either of the parties shall be met with, either sailing along the coasts or on the high seas, by any ship of war, or by any privateers of the other, for the avoiding of any disorder, the said ships of war or privateers shall remain out of cannon shot, and may send their boats on board the merchant ship which they shall so meet with, and may enter her to the number of two or three men only, to whom the master or commander of such ship or vessel shall exhibit his passport concerning the property of the ship, made out according to the form annexed to this present treaty, and also the certificates aforesaid relative to the cargo; and, when the master or commander shall have exhibited such passport and certificates, and there shall not appear among the articles of the said cargo enemy's property, or any articles contraband of war, then such master or commander shall be at liberty to pursue his voyage, so as it shall not be lawful to molest or search his vessel in any manner, or to give her chase, or force her to quit her intended course: And it is expressly agreed that the neutral party shall in no case be required to go on board the examining vessel for the purpose of exhibiting his papers, or for any other examination whatever.

ART. 25. It is agreed that, in all cases where vessels shall be captured, or detained by reason of their having on board enemy's property, or carrying to the enemy any of the articles which are contraband of war, the captor shall give a receipt for such of the papers of the vessel as he shall retain; which receipt shall be annexed to a descriptive list of the said papers, and the said vessel shall be brought to the nearest and most convenient port of the country to which the captor belongs; and it shall be unlawful to break up or open the hatches, chests, trunks, casks, bales, or vessels found on board such ship, or to remove even the smallest parcel of the goods, unless the lading be brought on shore in the presence of the officers of the Admiralty, and an inventory made by them of the said goods; nor shall it be lawful to sell, exchange, or alienate the same in any manner, unless, after due and lawful process shall have been had against such goods, and the Judge or Judges of the Admiralty, respectively, shall, by sentence pronounced, have confiscated the same, saving, always, as well the ship itself as the other goods found therein; and if, when only part of the cargo shall consist of contraband goods, the master of the ship shall agree, consent, and offer to deliver

them to the captor who has discovered them, in such case the captor, having received those goods as lawful prize, shall forthwith release the ship, and not hinder her by any means from prosecuting her voyage to the place of her destination.

ART. 26. And that proper care may be taken of the vessel and cargo, and embezzlement prevented, it is agreed that it shall not be lawful to remove the master or commander of any captured vessel, or the supercargo thereof, from on board the same, neither during the time that the vessel may be at sea after her capture, nor pending the proceedings against her or her cargo, or any part thereof. And in all cases where a vessel of the citizens of either party shall be captured or seized, and held for adjudication, her officers, passengers, and crew, shall be hospitably treated. They shall not be imprisoned, nor deprived of any part of their wearing apparel, nor of the possession and use of their money, not exceeding, for the captain, supercargo, and mate, five hundred dollars each; and, for the sailors and passengers, one hundred dollars each.

ART. 27. If it shall appear that the captor bribed, or attempted to bribe, any of the ship's crew or passengers to give any evidence, or make any declaration or disclosure whatever, respecting the vessel, her lading, or destination, or make use of any kind of torture upon the master of the ship, the crew, or others who shall be on board of the same, in such case, whatever grounds there might otherwise be for condemnation, the ship and her lading shall, without delay, be acquitted and restored, with costs and damages; and, also, such shall be guilty of any of the said crimes, as well as their accomplices, shall suffer the most severe punishment suitable to their offences. And, to insure the observance of this article, provision shall be made by law in each country to carry the same into full effect.

ART. 28. It is further agreed that all prizes shall be conducted to a port of the party at war; and, in all cases, the established courts for prize causes, in the country to which the prizes may be conducted, shall alone take cognizance of them. And whenever such tribunal or court of either of the parties shall pronounce sentence against any vessel, or goods, or property claimed by the citizens of the other party, the reasons or motives of such judgment shall be entered in the sentence or decree, and a duly authenticated copy of all the proceedings in the cause, and of the said sentence, shall, if required, be delivered to the commander or agent of the said vessel without the smallest delay, he paying all legal fees and demands for the same.

ART. 29. When process shall be moved, in the first or second instance, between those that have taken the prizes at sea and the persons interested therein, and the said interested persons shall come to obtain a favorable judgment or decree, the said judgment or decree shall have its execution, upon security given, notwithstanding the appeal of him that took the prize: but the same shall not hold, on the contrary, where the sentence goes against the claimers.

ART. 30. The merchant ships belonging to the

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citizens of either of the two contracting parties which intend to go to a port at enmity with the other, concerning whose voyage and the sort of goods on board there may be just cause of suspicion, shall be obliged to exhibit, as well on the high seas as in the ports and havens, not only their passports, but also their certificates expressing that the goods are not of the kind which are contraband, as specified in the twenty-first article of this treaty.

ART. 31. And that more abundant care may be taken for the security of the respective citizens of the contracting parties, and to prevent their suffering injuries by the men of war or privateers of either party, all commanders of ships of war and privateers, and all others the said citizens, shall forbear doing any damage to those of the other party, or committing any outrage against them; and, if they act to the contrary, they shall be punished, and shall also be bound in their persons and estates to make satisfaction and reparation for all damages, and the interest thereof, of whatever nature the said damages may be.

For this cause all commanders of privateers, before they receive their commissions, shall hereafter be obliged to give, before a competent judge, sufficient security, by at least two responsible sureties who have no interest in the said privateer; each of whom, together with the said commander, shall be jointly and severally bound in the sum of — dollars or — francs; or, if such ship be provided with above one hundred and fifty seamen or soldiers, in the sum of — dollars or — francs, to satisfy all damages and injuries which the said privateer, or her officers or men, or any of them, may do or commit, during their cruise, contrary to the tenor of this treaty, or to the laws and instructions for regulating their conduct; and further, that in all cases of aggressions, the said commissions shall be revoked and annulled.

ART. 32. It shall not be lawful for any foreign privateers, who have commissions from any other Prince or State in enmity with either nation, to arm their ships in the ports of either of the said parties, nor to sell what they have taken, nor in any other manner to exchange the same, nor shall they be allowed to purchase more provisions than shall be necessary for their going to the nearest port of that Prince or State from whom they obtained their commissions.

ART. 33. It is further agreed that both the said contracting parties shall not only refuse to receive any pirates into any of their ports, havens, or towns, or permit any of their inhabitants to receive, protect, harbor, conceal, or assist them in any manner, but will bring to condign punishment all such inhabitants as shall be guilty of such acts or offences. And all their ships, with the goods or merchandise taken by them, and brought into the port of either of the said parties, shall be seized, as far as they can be discovered, and shall be restored to the owners, or their factors or agents duly deputed and authorized in writing by them, (proper evidence being first given in the Court of Admiralty for proving the property,) even in case such effects should have passed into other hands by

sale, if it be proved that the buyers knew, or had good reason to believe or suspect, that they had been piratically taken.

ART. 34. Neither party will intermeddle in the fisheries on the coasts of the other, nor disturb the other in the exercise of the rights which it now holds or may acquire of fishing on the banks of Newfoundland, in the Gulf of St. Lawrence, or elsewhere on the American coast northward of the United States of America; but the whale and seal fisheries shall be free to both in every quarter of the world.

ART. 35. It shall be free for the two contracting parties, respectively, to appoint Consuls for the protection of trade, to reside in the dominions and territories of each party. Either of the parties may except from the residence of Consuls such particular places as such party shall judge proper to be excepted. Before any Consul shall act as such, he shall be, in the usual forms, approved and admitted by the party to whose territory he is sent; and the said Consuls shall enjoy those liberties and rights which belong to them by reason of their function. And it is agreed that the admission of a Consul by the government of a colony, shall be deemed such a provisional admission as to entitle him to act as such until the will of the Government to which such colony belongs shall be formally made known. And it is hereby declared to be lawful and proper, that, in case of illegal or improper conduct towards the laws or Government, a Consul may be either punished according to law, or dismissed, and even sent back; the offended Government assigning to the other their reasons for the same.

ART. 36. It is agreed that the first twelve articles of this treaty shall be permanent, and that the subsequent articles shall be limited to twelve years, to be computed from the day on which the ratifications of this treaty shall be exchanged.

Nothing in this treaty shall be construed to operate contrary to former and existing public treaties with other Sovereigns or States.

MAY 16.

The following letter was received from the Secretary of State, and, on the next day, the letter under date of the 27th, was prepared, and forwarded with the several enclosures mentioned; duplicates and triplicates of this last despatch were also soon afterwards sent by different routes:

DEPARTMENT OF STATE,
Philadelphia, February 14, 1800.

GENTLEMEN: In your commissions, containing your full powers, you are named "Envoys Extraordinary and Ministers Plenipotentiary of the United States to the French Republic;" and you are authorized "to meet and confer with the Minister or Ministers of the French Republic, who shall be appointed and commissioned with equal powers, and with such Minister or Ministers to discuss and settle by a treaty all controversies between the United States and France." Consequently, the circumstance of your letters of credence being addressed to the late "Executive Directory," need

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not prevent or impede the proposed negotiation, provided the existing Government in France are inclined to enter upon it, and to conclude a treaty.

This is the President's opinion, and, by his direction, I now communicate it to you. Indeed, the idea must have occurred to you, it being obvious that a satisfactory treaty, however negotiated, which shall be approved and ratified by the President, by and with the advice and consent of the Senate, will be alike valid as if conducted with the most minute attention to customary formalities.

I am, with great respect, gentlemen, your most obedient servant,

TIMOTHY PICKERING.

OLIVER ELLSWORTH, &c.,
Envoys to the French Republic.

PARIS, May 17, 1800.

SIR: We had the honor to write to you on the 18th ultimo, covering all the communications between us and the Ministers Plenipotentiary of the French Republic up to that date, and a duplicate and a triplicate of that despatch have also been forwarded. The quadruplicate of your letter, (No. —,) arrived some time ago, and your letters of the 14th of February and 7th of March were received last evening.

The enclosed copies, marked W. X., will give you the necessary information respecting the progress and present state of the negotiation. As the French Ministers entered on the business of their commission soon after their appointment, and at the seat of their Government, it seems to have been so arranged that they were to receive their instructions on important points as they might become necessary in the course of the negotiations. This duty was naturally attached to the office of Exterior Relations; and our progress has suffered some delay by the sickness of M. Talleyrand, who has been confined by a severe illness from about the 15th of April to the 14th or 15th of this month. You will observe, however, that, even during this period, the business has been pressed forward on our part the whole length of the proposed treaty, with a view of avoiding all useless discussion, of fixing the attention of the Ministers to the real points of difference, and of marking with certainty the progress of the negotiation.

The situation of the army of Italy, commanded by General Massena, has been extremely critical, and has attracted the particular attention of the Premier Consul; and the army of reserve, amounting to about sixty thousand men, has marched to its relief. The French are, however, very successful on the Rhine, and the Government is as yet unshaken; it professes justice and moderation, and appears to be desirous of peace, which, there is some reason to believe, may be the result of the present campaign.

Our success is yet doubtful. The French think it hard to indemnify for violating engagements, unless they can thereby be restored to the benefits of them. Very few American vessels have been brought into European ports since our arri-

val at Paris, and, for some time past, we have heard of none. We know not, however, of any orders of this Government for the restraining of captures, except such as may have been the consequence of the enclosed law, repealing that of the 29th Nivose. Prisoners have been generally released, on a receipt being given by the American agents, promising the discharge of as many French seamen from confinement in the United States.

The court lately established for deciding questions of prize administratively, as it is called, and before which there are many American appeals, has not yet made any decisions.

We enclose, also, the copy of the law repealing the 1st article of the law of the 29th Nivose, and the arrêt of the Consuls respecting their new court, called "le conseil des prises."

We have the honor to be, sir, with great respect, your most obedient servants,

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

TIMOTHY PICKERING, Esq.,
Secretary of State.

The following note was received, covering two acts of the French Government:

26th FLOREAL, (16th April.)

The Ministers Plenipotentiary of the Republic have the honor to transmit to the Ministers Plenipotentiary of the United States the documents announced in the postscript to their last note, which had been accidentally omitted.

They pray the Ministers of the United States to accept the assurance of their high consideration.

RÖDERER,
FLEURIEU,
BONAPARTE.

PARIS, May 19, 1800.

The Envoys Extraordinary of the United States have the pleasure to acknowledge the receipt of two acts of the French Government, mentioned in the postscript of the note of the Ministers of the Republic. These papers have been forwarded to the Government of the United States, who, as late as the 7th of March, had received no advices respecting the acts or measures of the present Government of France.

They request the Ministers of the Republic to accept the assurance of their high consideration.

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

MAY 23.

The French Ministers had frequently mentioned in conversation the insuperable repugnance of their Government to yield its claim to the anteriority assumed to it in the Treaty of Amity and Commerce of 1778; urging the equivalent alleged to be accorded by France for this stipulation; the meritorious ground on which they generally re-

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presented the treaty stood; denying strenuously the power of the American Government to annul the treaties by a simple Legislative act, and always concluding that it was perfectly incompatible with the honor and dignity of France to assent to the extinction of a right in favor of an enemy, and much more so to appear to acquiesce in the establishment of that right in favor of Great Britain. The priority with respect to the right of asylum for privateers and prizes, was the only point in the old treaty on which they had anxiously insisted, and which they agreed could not be as well provided for by a new stipulation. They had, however, transmitted no answer to the note of the Envoys, covering the remaining part of the project of a treaty; and only indirect intimations had been received, that difficulties had arisen, from the limited nature of the instructions of the French Ministers. But, at an interview to-day, the Envoys were officially informed that the negotiation was at a stand on the part of France; that no further progress could be made until other powers* were procured from the Premier Consul, as the tenor of their instructions made the acknowledgment of former treaties the basis of negotiation and the condition of compensation; that the French commission was working upon a report which would be delivered in a day or two to the Minister of Exterior Relations, and forwarded immediately by a courier to the Premier Consul, who had left Paris the 6th of May, and was supposed to be at this time in Switzerland or Italy.

MAY 24.

The Envoys held a conference to-day for the purpose of taking into consideration the information received yesterday, and the critical state of the negotiation; and, considering that the judgment of the Premier Consul would probably be formed upon the impressions made by the report; that the instructions which would be the result might possibly be conclusive; and that, in any event, there might be some difficulty, and certainly delay, in procuring any alteration, it was deemed expedient to transmit the note following, under date of the 25th, with a view to obviate any apprehension that our Government contemplated further grants to their prejudice, and as containing an intermediate ground, conciliatory to the pride of the French Government, without sacrificing the honor or interests of the United States.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

PARIS, May 25, 1800.

CITIZEN MINISTERS: The undersigned having bestowed the most mature consideration upon the subject so often mentioned with so much interest by the Ministers of the French Republic, and being desirous of guarding against any misapprehension on that head, have thought it expedient to propose the clause enclosed, as an addition to the thirty-second article of their project of a treaty.

Accept, Citizen Ministers, the assurance of their high consideration.

OLIVER ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

To be added to the thirty-second article:

Nor will either of the said parties, while they continue in amity, make a treaty with any foreign Sovereign or State, stipulating for the privateers and prizes of such Sovereign or State an asylum in the ports of either, unless they shall have assured to each other such right of asylum for the privateers and prizes of each in the ports of the other.

MAY 25.

The following letter was received from the Secretary of State:

DEPARTMENT OF STATE,
Philadelphia, April 9, 1800.

GENTLEMEN: On the 3d instant Capt. Barry arrived here with your letter, dated at Burgos, on the 10th of February, covering copies of your letters of December 7th from Lisbon, and January 18th from Corunna, and your correspondence with Mr. Talleyrand. These are the first and only despatches received from you since you left the United States. We are happy you escaped the perils of the sea in your attempting a voyage from Lisbon to L'Orient.

The answer of Mr. Talleyrand confirms the opinion expressed in your letter to him, that the circumstance of your letters of credence being addressed to the Directory of the French Republic could be viewed merely as a formality of no moment to the object of your mission. Your powers are full to negotiate and settle by treaty all differences between the United States and the French Republic, and to make commercial arrangements. The person or persons vested with the Executive power of the nation, if really desirous of such an adjustment, could not possibly make any serious objection to the address of your letters of credence, which was perfectly correct at their date. For these reasons, and because no official notice has been received of any change in the form of the Government of France, or in the person administering it, the President does not think it necessary to send any new letters of credence. Mr. Talleyrand having said that "the form of your letters of credence would be no obstacle to the opening of negotiations, of which he ventured to foresee the happy success," must indeed be considered as removing all doubt on the subject.

The ship Portsmouth, Captain McNeil, goes with this letter to Havre de Grace, whence he will send one of his officers to Paris, and receive your orders. The President supposes that by the time of her arrival, your negotiations will be con-

* Speaking on this subject, the French Ministers always used the words "powers" and "instructions" synonymously.

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cluded, and that Judge Ellsworth and Governor Davie will take their passage in her to America. Should your negotiations be still pending, and any reason satisfactory to yourselves, (according to the latitude given in your instructions,) determine you to wait longer in France, you will, at your discretion, either detain or send back the Portsmouth, as you shall think expedient for the public good.

I have the honor to be, with great respect, gentlemen, your obedient servant,

TIMOTHY PICKERING.

OLIVER ELLSWORTH, &c.,

Envoys to the French Republic.

JUNE 1.

As the French Ministers had yet made no answer to the notes of the 8th and 25th of May, covering the remaining details of the project of a treaty, the American Ministers thought it would be proper to press them for an answer, or at least an explanation of the cause of their silence; and sent them the following note, which was answered by the note under date of the 16th Prairial:

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

PARIS, June 1, 1800.

Solicitous as are the undersigned, Citizen Ministers, to terminate happily and with promptitude a negotiation which is calculated to promote the interests of the two nations, they invite your attention to their notes of the 8th and 25th of May, and hope to be honored with as early an answer as the state of the business will admit of.

They trust that, while they avow a strong disposition to hasten the great object in view, they will not be chargeable with impatience; the frank development of their views will have been properly estimated.

Accept, Citizen Ministers, the assurances of their high consideration.

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

PARIS, 16 Prairial, (5th June,) year 8.

The undersigned, Ministers of the French Republic, participate with the Envoys Extraordinary and Ministers Plenipotentiary of the United States, in the desire which they express, in their note of the 12th of this month, that the negotiation with which they are respectively charged should be brought to a speedy and favorable issue. The Ministers of France, in acknowledging the receipt of the note which the Ministers of the United States were pleased to address to them, the 18th Floreal, have had the honor to state that the examination of its contents would occasion some delay. That note has been since that time the subject of their most serious attention. After mature deliberation, they considered the propositions it contained of a nature to require submission, for ultimate decision, to the Government of the Republic. The Ministers Plenipotentiary have, there-

fore, transmitted it to the Minister of Exterior Relations, by whom they are informed that he has himself deemed it necessary to take the direction of the First Consul. As soon as the undersigned shall have received the expected instructions, they will hasten to transmit their answer to the Envoys Extraordinary and Ministers Plenipotentiary of the United States.

Meanwhile, the undersigned pray the American Ministers to accept the assurance of their perfect consideration.

BONAPARTE,
FLEURIEU,
RÖDERER.

JULY 5th.

The following letter was received from C. Lee, Esq., acting as Secretary of State:

DEPARTMENT OF STATE,
Philadelphia, 22d May, 1800.

GENTLEMEN: Since the letter at Burgos, 10th February, which was received early in April, the President has not had the pleasure of receiving a letter from any of the Envoys to the French Republic. But by various European gazettes, intelligence has reached him of your safe arrival in Paris, in the beginning of March, and, before many days shall elapse, he hopes to receive information from you upon the subject of your mission.

The unexpected and unavoidable delays after you left Lisbon may possibly have the consequence of your retarding your return home so long that this letter will find you at Paris; and, in contemplation of such a possibility, it is written.

Congress adjourned on the 14th instant. The most material acts of the session were the following:

An act on the subject of bankruptcies.

An act to authorize the President to borrow three millions and a half of dollars.

Sundry acts continuing the system of maritime defence, and the prohibitions of commerce in regard to the French Republic, and her dominions, as they stood at the commencement of the session.

And an act for disbanding the additional twelve regiments, excepting the artilleryists, and engineers, part thereof, on or before the 15th of June next.

Whatever may be the result of your negotiation, in the present state of France and the United States, this part of the military establishment was not deemed indispensably necessary. A considerable saving of money would be the immediate consequence; and if your negotiation should fail to restore peace and harmony between the two countries, a greater portion of the resources of the United States would remain to be expended more advantageously than in the support of an army. This alteration in the defensive system was very generally approved in the Senate and House of Representatives, just before the session was closed.

The judicial system remains as it stood. Our country is at present blessed with the prospect of a most plentiful harvest of wheat and rye, and the

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losses of our merchants arising from depredations are considerably diminished. I am instructed to express the President's hope that your reception at Paris has been agreeable, and that your mission has been accomplished in a manner entirely satisfactory, or, if not accomplished, that the negotiation is near a happy conclusion; and, at the same time, to add his wishes that you may soon return in health and happiness to the bosom of our beloved country. I have the honor to be, &c.

CHARLES LEE,
Acting Secretary of State.

The American Ministers having been officially advised that their notes of the 8th and 25th of May, with the details accompanying them, had been submitted to the Minister of Exterior Relations, were also soon afterwards confidentially informed that the whole business was referred to the decision of the Premier Consul, who was then in Italy; and about the — of June, Joseph Bonaparte, President of the Commission, set out for the headquarters of the Army. The object of his journey to the Premier Consul was not publicly known, nor was his departure announced to the American Ministers. The battle of Marengo took place on the 14th day of June, and the Premier Consul returned to Paris the 3d of July; Joseph Bonaparte also arrived a few days afterwards. While the American Ministers sincerely regretted the delay occasioned by the above unexpected circumstances, they supposed it probable that the Premier Consul might not have had sufficient leisure, amidst the active operations of the armies, to determine upon the several matters respecting the treaty, and that his decisions and instructions might have been postponed until his return to Paris. At a meeting, however, on the 6th of July, they were of opinion that they had then made a proper allowance for all circumstances that might have countenanced delay on the part of the French Ministers, and addressed to them the following note:

PARIS, *July 6, 1800.*

CITIZEN MINISTERS: Presuming, as the undersigned Envoys Extraordinary and Ministers Plenipotentiary of the United States do, that you are now acquainted with the ulterior views of your Government, respecting the negotiation between the United States and the French Republic, they request the honor of a conference on that subject, at such time and place as may be most convenient for you. They trust that the unfortunate delays, which have hitherto attended the business, will justify their hopes of bringing it to a speedy close.

Accept, Citizen Ministers, the assurance of their high consideration,

OLIVER ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

TO MESSRS. JOSEPH BONAPARTE, FLEURIEU, and
RÖDERER.

The next day the American Ministers were invited to dine on the 11th with the President of the

French Commission; and, as no answer had been received to the note of the 6th, it was agreed that the 11th should be considered by them as the time appointed for the conference; the object of which, on their part, was to ascertain the difficulties which seemed to have arrested all progress on the part of the French Ministers; to designate, with more precision, the real grounds of difference; and, if possible, to adopt some arrangement that would accelerate the negotiation. On the 11th, before dinner, M. Bonaparte informed them that the whole business of the treaty was now under the consideration of the Premier Consul, and that his decisions and instructions were expected in the course of a few days, when the notes and propositions received would be immediately answered. The American Ministers repeated their regret at the long delay which had taken place; and, upon their expressing the desire that a conference should be held that evening, the French Ministers readily consented. After the objects of requesting an interview were stated, the President of the French Commission said they would frankly state the difficulties which had arisen with their Government: although they had not received officially its determination of instructions, they believed they were possessed of its present sentiments and opinions, and could not avoid adding that they accorded with those of the Commission. He then declared that it was the decided opinion of the Premier Consul that the ancient treaties ought to be the basis of negotiation; that compensation could only be a consequence of the existence of the treaties, and the re-establishment under them of the former privileges and relations; and that he would never consent to make a treaty which would surrender the exclusive rights of France, in effect, in favor of an enemy; or, in any event, make a treaty with the United States, which would not place France on a footing of equality at least with Great Britain. He thought it would be derogatory to the present Government to make a treaty, less advantageous and less honorable than that made by the royal Government. Discussions of some length took place on the most important points: but, as the whole business, on the part of the French Ministers, was under reference to their Government, no point could of course be settled; and the conference closed with the request of the French Ministers that all they had said should be considered merely as confidential.

After several deliberations on the difficulties which had now completely arrested the progress of the negotiation, and the selection of some expedient which might remove them, the American Ministers at length determined to request an early interview, and make a proposal to the effect that the payment of the indemnities should be suspended until the Government of the United States should have offered to France an article, re-establishing her in the exclusive privileges she claimed, under the treaty of 1778. It was considered that the American Government might or might not perform the condition, after a further view of the political state of Europe, and the possession of more ample means to estimate a promise of in-

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demnity. It was also clearly perceived that, unless the indemnities were secured by some means under the present negotiation, they would be forever lost.

JULY 15.

At an interview to-day with the French Ministers, the following proposition was delivered to them in writing:

"Indemnities to be ascertained and secured in the manner proposed in our project of a treaty, but not to be paid until the United States shall have offered to France an article, stipulating free admission into the ports of each for the privateers and prizes of the other, and the exclusion of those of their enemies; nor unless the article be offered within seven years: such article to have the same effect, in point of priority, as a similar provision had in the treaty of 1778.

"JULY 15, 1800."

The circumstances which motived the proposition and its principle were briefly explained on the part of the American Ministers, who concluded by adding, that an answer was not expected at that interview. There was, however, no difficulty in perceiving, that the first impression was not perfectly satisfactory to the French Ministers; their observations took the same course they had done the preceding conference, and were answered on the same principles. Upon the American Ministers expressing their wish to receive an answer to this and their former propositions as speedily as possible, the French Ministers repeated their professions on that head; adding, that the observations they had made in these interviews were to be considered as merely hypothetical and unofficial.

JULY 20.

Meeting the French Ministers to-day at M. Røderer's, it was agreed to press them again officially for an answer. An interview took place after dinner, and M. Bonaparte said that he had seen the Minister of Exterior Relations that morning, on the business of the negotiation; and that he was assured that in a few days they should receive the decision and instructions of their Government.

JULY 23.

The American Ministers, having taken into consideration the importance of the discussions which took place at the late interviews, thought it expedient to address the following note to the French Ministers:

PARIS, *July 23, 1800.*

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

CITIZEN MINISTERS: The Envoys of the United States being apprehensive lest possibly their remarks to the Ministers of the French Republic, in the two last conferences which led to and accompanied their written proposition, may not have been fully comprehended, from being expressed in a language but imperfectly understood, they have

thought proper to reduce the substance of them to writing.

As to the proposition of placing France, with respect to an asylum for privateers and prizes, upon the footing of equality with Great Britain, it was remarked, that the right which had accrued to Great Britain in that respect, was that of an asylum for her own privateers and prizes, to the exclusion of those of her enemies; wherefore, it was physically impossible that her enemies should at the same time have a similar right.

With regard to the observation, that by the terms of the British Treaty the rights of France were reserved, and, therefore, the rights of Great Britain existed with such limitation as would admit of both nations being placed on a footing which should be equal, it was observed by the Envoys of the United States, that the saving in the British Treaty was only of the rights of France resulting from her then existing treaty; and that that treaty having ceased to exist, the saving necessarily ceased also, and the rights, which before that event were only contingent, immediately attached and became operative.

With respect to the supposition that the treaties with France yet continued to exist, it was remarked, that a treaty being a mutual compact, a palpable violation of it by one party did, by the law of nature and of nations, leave it optional with the other to renounce and declare the same to be no longer obligatory, and that, of necessity, there being no common tribunal to which they could appeal, the remaining party must decide whether there had been such violation on the other part as to justify its renunciation. For a wrong decision it would doubtless be responsible to the injured party, and might give cause for war; but, even in such case, its act of public renunciation, being an act within its competence, would not be a void but a valid act; and other nations, whose rights might thereby be beneficially affected, would so regard it: that it had become impossible for the United States to save their commerce from the depredations of French cruisers, but by resorting to defensive measures; and that as, by their Constitution, existing treaties were the supreme law of the land, and the Judicial department, who must be governed by them, is not under the control of the Executive, or Legislative, it was also impossible for them to legalize defensive measures, incompatible with the French Treaties, while they continued to exist. Then it was that they were formally renounced, and from that renunciation there resulted necessarily a priority in favor of the British Treaty as to an exclusive asylum for privateers and prizes. A right, indeed, which she has made little use of, and with respect to which it would be un consequential, during the remainder of the present war, whether she or France possessed it; but as it was a vested right, neither the Government of the United States nor their Ministers could, with good faith, stipulate to France a right inconsistent with it.

To the still further suggestion that the law of nations admitted a dissolution of treaties only by mutual consent or war, it was remarked by the

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undersigned, that their conviction was clearly otherwise; and that *Vattel*, in particular, the best approved of modern writers, not only held that a treaty violated by one party might for that reason be renounced by the other, but that, when there were two treaties between the same parties, one might be rendered void in that way, and the other remain in force: whereas, when war dissolves, it dissolves all treaties existing between the parties at the time.

It appearing, however, to be the ultimate opinion of the French Ministers that it did not comport with the honor of France to be deprived of that right, and at the same time to be called upon for compensation, the undersigned, solicitous for the honor of France as well as of America, devised and offered, as their last effort, the written proposition alluded to, which, it was conceived, did essentially remove the difficulty. Its object was to suspend the payment of compensations, a consideration of much weight in the estimate of the United States, until France could be put into complete possession of the privileges she contended for; and, at the same time, to give that security, which a great pecuniary pledge would amount to, for her having the privilege, as soon as it could be given with good faith, which might, perhaps, be in a little more than two years, and at any rate within seven.

Accept, Citizen Ministers, the assurance of their high consideration.

OLIVER ELLSWORTH.
WILLIAM R. DAVIE.
WILLIAM V. MURRAY.

The following answer was received:

PARIS, *8th Thermidor*,
(*26th August*), year 8.

The Ministers Plenipotentiary of the French Republic have received the note dated 23d July, 1800, (4th Thermidor, year 8.) which the Envoys Extraordinary and Ministers Plenipotentiary of the United States of America have been pleased to address to them.

That note has two objects:

The first, to recapitulate the answers which had been given by the Ministers Plenipotentiary of the United States, at two former conferences, to the remarks then made by the Ministers Plenipotentiary of France, on the subject of the right of asylum, in the ports of the United States and France, which has been assured to the privateers and prizes of both nations, reciprocally, and exclusively, by the Treaty of 1778; a right which the Ministers Plenipotentiary of the United States maintained had been annulled between France and the United States, and established, to the injury of France, between the United States and England.

The second object of the note is, to explain the propositions, made by the American Ministers, at the last conference, by which they offered to stipulate that the indemnities which may be due to the United States, "shall not be paid, until the United States shall have offered to the French Republic an article stipulating free admission, in the ports of each, for the privateers and prizes of the other, and the exclusion of those of their enemies;

and, moreover, that these indemnities shall not be paid unless the article shall be offered within seven years: such articles to have the same effect, in point of priority, as a similar provision in the Treaty of 1778."

As to the first object, the Ministers of the French Republic are compelled to repeat, that their instructions, predicated on the complete recognition of the ancient treaties, leave them no power to consent to the extinguishment of a right, confirmed by the Treaty of 1778, by which the privateers of the two nations, respectively, are allowed to enter the ports of each other; and, least of all, to consent to the incorporation of that right with the existing relations between the United States and Great Britain.

But being convinced that the true interest of France is closely connected with that of the United States, and that the prosperity of the United States mainly depends on their complete independence; being convinced, also, that an exclusive right, conferred by one nation upon another, to bring prizes into her ports, has a tendency to compromise tranquillity, and by that means endanger independence: inasmuch, as, in a number of cases, causes either of complaint or of distrust must be given to the Power from whom prizes have been taken; the undersigned hasten to repeat to the American Ministers the proposition already made, that, in the event of a reconciliation being effected, they will consider it their duty to urge upon their Government to abolish the exclusive right to enter the ports of each other, with privateers and their prizes; and to limit their privilege to that enjoyed by the most favored nation. They believe that France would do herself honor by the voluntary sacrifice of a privilege prejudicial to her allies; but that, to consent to be despoiled of that privilege, for the benefit of an enemy, without thereby contributing to American independence, would exhibit to the world a striking instance of self-degradation.

The Ministers of France cannot discover, in the note of the 23d July 1800, any reason to incline them to the supposition that the treaties between France and the United States* are abrogated.

When on the one hand, Congress declare that France has contravened these treaties, and that the United States are released from their stipulations; and when, on the other, the Government of France declares that she has conformed to these treaties, that she desires their execution, and that the United States alone have infringed them; where is the tribunal or the law to enforce the exoneration, in preference to the execution?

So long as a difference exists between two contracting parties, respecting the existence or abrogation of a treaty, no right or benefit can result to a third party from the abrogation contended for by one.

If France had declared the treaties annulled, and

* The act of Congress of July 9, 1798, is the declaration of one of two parties; but the treaties were the work of two. A compact formed by two can be destroyed by one in no other way except by war and victory.

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the United States had maintained their validity: England would have no ground for saying to America, "We succeed to the rights of France." There is no foundation, even for a doubt, whether a treaty is cancelled by the declaration of its abrogation made by one only of the parties.

These reflections are in conformity with the doctrines advanced by all writers upon the laws of nations. The opinion of *Vattel* can only be understood of a nullity in point of right, not of a nullity in fact: and it is only a nullity in fact that can give an opening, respecting the claim of anteriority, to rights resulting to a third party.

These reflections, moreover, arise from the very nature of things. If one of two contracting parties is at liberty, whenever he may please, to cancel his obligations, in virtue of his own judgment concerning facts, or men, or things, no binding force can be attached to treaties, and the term itself should be erased from every language.

If the right of anteriority can be destroyed, to the prejudice of the nation that possesses it, by the sole act of one of the parties by whom that right has been recognised, it must be acknowledged as a principle, that the nation making the second treaty converts the one with whom she first contracted into an enemy; and that she may be certain of being despoiled by that enemy whenever the time may be propitious for an open explanation.

The Ministers Plenipotentiary of the French Republic refrain from pursuing these observations. What has been said will already suffice to establish the rights of France and to insure to herself the honor of a sacrifice which she would make by renouncing the exclusive right under which the privateers of France, together with their prizes, are entitled to enter the American ports.

Passing to the second object of the note, the Ministers of France observe, that the proposition of the American Ministers offers to the Republic, at a remote period, the hope of enjoying exclusive advantages, of which, in the mean time, they think that France should not be jealous; and at the present moment, perhaps for seven years to come, it tenders the humiliating forfeiture of privileges acquired by effective services to America in time of war, and a degrading inferiority to a rival Power, at whose expense these privileges were first obtained. When the Ministers of France shall subscribe to a condition so unworthy of the French nation, the price of her humiliation will assuredly not be the simple postponement of a state of subjugation, which she regards as inconsistent with the interests of the United States. The dependence of her allies will never be considered a suitable indemnity for the wrongs she may endure. The Ministers of France, believing it their duty to recommend to their Government the surrender of a privilege honorably acquired, might be charged with inconsistency if they should prudently provide for its restoration at a distant period.

The Ministers Plenipotentiary of the French Republic can, therefore, only await the final determination of their Government; and, whenever received, they will hasten to transmit it to the Ministers Plenipotentiary of the United States.

They have the honor to assure the Ministers Plenipotentiary of the United States of their high consideration.

J. BONAPARTE,
FLEURIEU,
RÖDERER.

AUGUST 11.

The following note was received from the French Ministers:

PARIS, 23 *Thermidor*,
(11th August,) year 8.

The Ministers Plenipotentiary of the French Republic have received from their Government the new instructions which they thought themselves obliged to ask, when they were informed, by the unexpected note of the Ministers Plenipotentiary of America, that the United States consider their treaties with France as annulled, and that the validity of these treaties could not be recognised, with all the advantages attached to their date. The French Ministers hasten to present to the Ministers of the United States the reflections and overtures which the actual state of the negotiation appears to demand.

In the first place, they insist upon the principle already established in their former note, viz: that the treaties by which France and the United States have been united are not annulled; that war itself could not have annulled them; and that the misunderstanding which, through the agency of individuals more than the intention of the respective Governments, has for some time existed between France and the United States, has not constituted a state of war, at least on the part of France.

If the reflections presented by the French Ministers on this subject, in their note of the 8th instant, have been sufficient to induce the American Ministers to admit the validity of these treaties, it would follow, as a necessary consequence, that the Ministers of France would hasten to renew the declaration that the parties should be reciprocally indemnified for injuries mutually sustained during the existence of that misunderstanding. If the treaties are preserved unimpaired, as originally concluded, it would be just and proper to extinguish even the remembrance of the recriminations which have occurred during the period of their existence.

The first proposition, then, of the Ministers of France, is to stipulate a full and entire recognition of the treaties, and a reciprocal promise of indemnities for the damages resulting, on the part of either, from their infraction.

If the American Ministers shall continue to believe that they possess no authority to recognise the validity of the ancient treaties, with the advantage arising from their date; if it shall appear that France has been only deceiving herself with delusive hopes, while relying upon an uninterrupted friendship with the United States; and that, in consenting to indemnify the injuries committed by a few privateers and some unauthorized agents, she has made only a useless display of her sacred adherence to her own engagements; the Govern-

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ment of France will, nevertheless, consent to the abrogation of the treaties; and with the less reluctance, because the American Ministers have appeared to consider some of their stipulations as incompatible with the perfect independence of the United States. Such is the provision referred to in the note of the American Ministers of the 18th Floreal, (8th May,) in which the desire is expressed to restrict the privateers of foreign nations, within the ports of the United States, to the rights of hospitality, in order to liberate the commerce of the United States from every restraint, and free their political relations from all connexion with the interests and passions of the belligerent Powers. The Government of France is convinced that it is only a complete independence than can advance the United States to the highest point of prosperity; and it agrees to make a willing sacrifice of advantages which may endanger that independence, however ample the equivalent by which they were acquired, and with whatsoever reciprocity or services it may have been repaid.

They, therefore, declare that the demands concerning the treaties, and the offer to repair the damages arising from their infraction, if an infraction has taken place, (a demand dictated by a scrupulous fidelity to engagements, and, at the same time, advantageous to the United States,) will now easily give place to the views, dictated by considerations of interest, independence, and security, with which they are now occupied: they especially declare, that they will not refuse to relinquish the exclusive privilege enjoyed by the privateers of France, to carry their prizes into the ports of the United States. Whilst, however, the Ministers of France acquiesce in the nullity of the treaties, they cannot conceal from themselves that the act of the United States, by which their abrogation has been declared, has been an unequivocal provocation to war; that the hostile acts, by which this provocation has been followed, increasing in number and publicity, even after France had removed every just cause of complaint, were nothing less than war; that France had desired to be insensible to the real state of her extraordinary relations with the United States; in a word, that a new treaty between France and the United States ought to be preceded by a treaty of peace. If the correctness of these observations is admitted, it would seem, that the two Governments ought to be occupied no longer with their respective losses: the rights of war acknowledge no obligation to repair its ravages: their consideration even is prohibited by national honor, since the State inflicting the greatest injury would, by making compensation, acknowledge a victor and purchase peace.

As to the rest, it must be perfectly understood that, in acquiescing in the annulment of these treaties, the French Government intends only to renounce the privileges which these treaties assured to France; and that France will never submit to be placed, in her relations with the United States, on a footing inferior to that of any other Power. She would renounce, without regret, the exclusive advantages she has enjoyed, but she cannot consent that other Powers shall enjoy the same ad-

vantages to her prejudice. She would relinquish freely the right she has acquired, but she will never acknowledge the right of another, founded on the destruction of her own. This she owes to her own character, and even to the prosperity of the United States. If it is the wish of the United States to be liberated from engagements which weigh, perhaps, too heavily on their national independence, they ought to desire the loosening of their fetters, in order to assume a more erect and imposing attitude, and not for the purpose of being bent with equal force in the opposite direction.

The second proposition of the Ministers of France, in case the former shall not be accepted, will then be the abrogation of ancient treaties; the formation of a new treaty, in which the French nation, abandoning a privilege inconvenient to the United States, shall be placed, in her political and commercial relations, on an equal footing with the most favored nation; and an entire silence on the subject of indemnities.

Thus, the proposition which the Ministers of France have the honor to communicate to the Ministers Plenipotentiary of the United States is reduced to this simple alternative:

Either the ancient treaties, carrying with them the privileges resulting from anteriority, together with stipulations for reciprocal indemnity;

Or a new treaty, promising equality, unattended with indemnities.

In this double overture, and the explanation accompanying it, the Ministers of the United States will, without doubt, perceive the desire of the French Government to terminate the negotiation in a manner satisfactory to the United States.

The French Ministers have the honor to assure the Ministers Plenipotentiary of the United States of their high consideration.

J. BONAPARTE,
C. P. CLARET FLEURIEU,
RÖDERER.

AUGUST 15.

The following letter was written to the Secretary of State, and forwarded by the Franklin, sailing from Bourdeaux:

PARIS, August 15, 1800.

SIR: Having ascertained, by an interview with the French Ministers, soon after our note to them of the 8th of May, a copy of which you have doubtless received, that, as we refused to assume the former treaties, they could proceed no further with our new instructions, and that a report on the state of the negotiation was preparing for the Minister of Exterior Relations, and ultimately for the Premier Consul; we judged it expedient, in order to obviate an apprehension that our Government contemplated further grants to the prejudice of France, and to diminish the hazard of sending off the business to the Premier Consul, then with the army in Switzerland, who, in a moment of agitation, might decide definitely upon it, to propose the following clause as an addition to the 32d article of our project, viz: "Nor will either of the said parties, while they continue in amity, make a treaty

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with any foreign Sovereign or State, stipulating for the privateers and prizes of such Sovereign or State, an asylum in the ports of each other, unless they shall have assured to each other such right of asylum for privateers and prizes of each in the ports of the other;" and it was accordingly sent with the note marked A.

Embarrassing as the delay for new instructions was seen to be, it was nevertheless deemed inexpedient, in the then critical state of European affairs, to treat it as a studied delay.

On the 1st of June, we addressed the note marked B, and on the 5th, received an answer marked C.

Soon after the Premier's return from Italy, the note marked D was sent.

The requested interview took place on Friday, the 11th July; and although the French Ministers declared that they had not received further instructions, yet, as they expressed a willingness to converse upon the subject, a conversation was entered upon, which had for its object to ascertain with more precision the grounds of difference between us. Their observations led to, and finally terminated in, this position: that, to be deprived of her former privileges in the ports of the United States, and that, too, in favor of an enemy, and at the same time to be called upon for compensation, was derogatory to the honor of France.

At a further interview, on the 15th July, we brought forward, in order to remove what seemed to be the difficulty at the interview, on the 11th July, a written proposal to suspend the actual payment of indemnities, on the condition of replacing France in the privileges she contended for. A condition which our Government might or might not perform, after it should have further seen the political state of Europe: and also been better able to estimate a promise of indemnity. The proposition was as follows, viz: "Indemnities to be ascertained and secured, in the manner proposed in our project of a treaty, but not to be paid until the United States shall have offered to France an article, stipulating free admission in the ports of each for the privateers and prizes of the other, to the exclusion of her enemies; nor unless the article shall be offered within seven years, such article to have the same effect, in point of priority, as a similar provision had in the treaty of 1778."

An immediate reply to the proposition was not pressed or wished; there was no difficulty, however, in perceiving that the impression was not perfectly satisfactory.

On the 23d of July, the note was sent, marked E, which throws some further light on the two preceding conferences.

The note marked G, purporting to be predicated on the new instructions, was received the 11th of August. This note is now under consideration, and will not be formally answered, till there has been an interview to ascertain some points.

It has however become manifest, that the negotiation must be abandoned, or our instructions deviated from. Should the latter be ventured upon, which, from present appearances, is not improbable, the deviation will be no greater than a change of circumstances may be presumed to justify.

The success of the French in Italy has produced an armistice, and has since opened with the Emperor a negotiation for peace, which is still pending. The result is daily and anxiously expected.

Captain McNeil, with the Portsmouth, arrived safe at Havre on the 23d of May, where he yet remains. The despatches sent by him were duly received. We are, &c., &c.,

OLIVER ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

An interview took place with the French Ministers on the subject of their note of the 23d Thermidor, for the purpose of ascertaining with more precision their views on some points which were supposed to be covered under the general terms of their note. The conference was opened on the part of the American Ministers in a manner which they supposed would entitle them to the utmost candor and frankness. The French Ministers were, however, extremely reserved, answering with great caution to every inquiry in the general terms of their note. The result of the conference was, of course, little satisfactory to the American Ministers, who were consequently obliged to consider the French note in the general terms of its text. It now became necessary to decide whether the negotiation should be broken off, or the instructions departed from; whether the treaties should be revived, or the indemnities sacrificed; and, if the treaties were revived, whether, after considering the text of the French note, and the obstinacy with which the Ministers adhered to it, an attempt should be made to effect a modification that might enable Government to extinguish the exclusive privileges of France under the Treaty of Amity and Commerce, as well as her claims under the Treaty of Alliance. The following note became the result of the several deliberations and discussions on these points, and was sent to the French Ministers on the 20th of August:

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

PARIS, August 20, 1800.

CITIZEN MINISTERS: The undersigned Ministers have been honored with your note of the 23d Thermidor.

It adds to the regret, occasioned by three months' delay for further instructions, that they confirm the obstacles which had brought the negotiation to a stand.

To abandon indemnities would be illy to select the means of restoring France to the confidence of a nation, too long accustomed to revere and practise justice ever to forget its demands. Nor could America ever conceive that, protecting from depredations her property which remains, had impaired a claim for that of which she has been despoiled. More difficult still of comprehension would it be, that she had aggressed by declaring the truth: for, doubtless, declaring that treaties ceased to bind her which the other party had long and greatly infringed, was no more. If, however,

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that declaration, as necessary for judicial purposes as it was conformable to truth, had amounted to a cause of war, yet, as the wisdom of France reconciled it to peace, its application on the principle of war to the extinguishment of claims would be inexplicable; and even as to war itself, though it does by its rights, or rather by its usages enforced against weaker Powers, merge the injuries it operates, it does not cancel obligations prior to its existence. If war had actually commenced when it is suggested there was cause given, still, how could its rights be seen to extinguish the claims of America, as the mass of her sufferings was at a time when her conduct towards France was remarkable for nothing but the patience with which she endured, and the moderation with which she sought to remove them?

If, in applying the principle, or exercising the natural right of self-defence, in a state of things now mutually and equally lamented, certain events have taken place, which might be regretted when considered in connexion with their cause; if these events have been attended with a sensation which the French Ministers are pleased to term "eclat," they will have candor enough to admit that this sensibility was natural among men sore by repeated losses, and citizens who had thought their country degraded by her patience and long suffering. A mutual stipulation, however, of restoration or indemnity will save the honor of both nations, and efface with the hand of justice every irritating remembrance. It is but proper here to remark, that if the action, or the notice of it, to which the French Ministers Plenipotentiary have particularly alluded, betaken in connexion with dates and distances, the American Government cannot be charged with neglecting to avail itself of conciliatory measures.

In a word, while nothing would be more grateful to America than to acquit herself of any just claims of France, nothing could be more vain than an attempt to discover to her reasons for the rejection of her own.

It is time for the two nations to return from a state of things difficult to name, and more difficult to account for, to the correcter views of '78; to the confidence inspired by co-operating for an object equally interesting to both; to that spirit which disavowed the idea of founding pretensions on exertions; and, finally, to that friendship which knew not the alloy of purchase.

Too much concerned with that epoch not to recollect its professions, and too confident in the wisdom of those professions to despair of their fruits, the American Ministers have persevered in efforts for a reconciliation. To remove obstacles interposed, they have developed their views and their doubts with more frankness than effect. To go further, they must take on themselves a high responsibility.

If, then, the dignity of one party cannot be satisfied with a recognition of former treaties, still less can the interests of the other dispense with a re-modification of them.

The seventeenth article of the Commercial Treaty, which stipulated an exclusive admission

for the privateers and prizes of each in the ports of the other, was but nominally reciprocal; not only because America would seldom be at war, but also by reason of the prior engagements of France under the Treaty of Utrecht, then in force, and since renewed. The real reciprocity of that article was to be sought for in another, which made free goods in free ships—a stipulation greatly beneficial for the United States could they have enjoyed it. This stipulation, however, proved inconvenient to France, as appeared from her defeating the use of it so early in the present war; and for that reason, the undersigned Ministers, in their project of a treaty, proposed to give it up, trusting that it would be deemed a full equivalent for abandoning, on the part of France, the first mentioned privilege stipulated to her.

The American Ministers have shown, in their note of the 8th May, that the free admission of privateers is inconvenient to the United States, and the Ministers Plenipotentiary of France have reasoned, in a note of the 8th Thermidor, and assumed in others, that an exclusive admission of those of one nation compromises their independence. France, then, will not insist on that privilege for herself, exclusively and forever. She will not embarrass that progress to greatness, which, with so much reason and so much solicitude, she seeks to cherish; nor, least of all, compromise the independence she guaranties. Doubtless, upon a review of this claim, her Ministers will be satisfied with the footing of the most favored nation; and, as to rights beyond that, will relinquish them gratuitously, or, at most, on terms not difficult to be complied with.

With respect to the eleventh article of the Treaty of Alliance, it has produced mischievous apprehensions, and never can produce an effect which will not contravene its professed design. If France should not discern the utility of relinquishing this article, she will acquiesce in a specification which may render it less incompatible with her policy.

If the American Ministers, in attending to the note before them, have avoided retracing the measures of the late French Government, which forced the United States to take the defensive position in which the present negotiation found them; if they have declined to renew former discussions, or have not availed themselves of the opportunity of commencing others; it is because time has become precious with them, and because also they yet think it may be more useful to search for means of healing the breach than for the causes which produced it.

As a further effort on their part to ascertain those means, they make the following propositions, predicated on the adoption of the first alternative in the overture of the French Ministers Plenipotentiary.

1. Let it be declared that the former treaties are renewed and confirmed, and shall have the same effect as if no misunderstanding between the two Powers had intervened, except so far as they are derogated from by the present treaty.

2. It shall be optional with either party to pay to the other, within seven years, three millions of

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frances, in money or securities, which may be issued for indemnities, and thereby to reduce the rights of the other as to privateers and prizes, to those of the most favored nation; and, during the said term allowed for option, the right of both parties shall be limited by the line of the most favored nation.

3. The mutual guaranty in the Treaty of Alliance shall be so specified and limited, that its future obligation shall be, on the part of France, when the United States shall be attacked, to furnish and deliver, at her own ports, military stores to the amount of one million of francs; and on the part of the United States, when the French possessions in America in any future war shall be attacked, to furnish and deliver, at their own ports, a like amount in provisions.

It shall, moreover, be optional for either party to exonerate itself wholly of its obligations, by paying to the other, within seven years, a gross sum of five millions of francs, in money, or such securities as may be issued for indemnities.

4. The articles of commerce and navigation, except the seventeenth article of the treaty, shall admit of modifications, reserving for their principle the rights of the most favored nation, where it shall not be otherwise agreed, and be limited in their duration to twelve years.

5. There shall be a reciprocal stipulation for indemnities, and these indemnities shall be limited to the claims of individuals, and adjusted agreeably to the principles and manner proposed by the American Ministers in their project of a treaty heretofore delivered, except where it shall be otherwise agreed. Public ships taken on either side shall be restored or paid for.

6. All property seized by either party, and not yet definitively condemned, or which may be seized before the exchange of the ratifications of the present treaty, shall be restored on reasonable, though it should be informal, proof of its belonging to the other, except contraband goods of the United States destined to an enemy's port. This provision to take effect from the signature of the treaty; and if any condemnations should take place contrary to the intent of this stipulation, before knowledge of the same shall be obtained, the property so condemned shall be paid for without delay.

The Ministers of the United States pray the Ministers of the French Republic to accept the assurance of their high consideration.

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

AUGUST 25.

The following note and propositions were received from the French Ministers:

PARIS, 7th Fructidor, (Aug. 25,) year 8.

The Ministers Plenipotentiary of the French Republic have received the note which the Ministers Plenipotentiary of the United States have done them the honor to address to them the second of the present month.

They cannot regard the overtures therein con-

tained as complying with the first part of the proposed alternative. In reality the first of the propositions offered to the option of the American Ministers was, that the United States should explicitly recognise the treaties they had concluded with France, with all the advantages attached to their date. In the last conference, which took place the 25th Thermidor, (13th August,) it was well understood, and even reduced to writing, that this part of the alternative should particularly exclude every idea of a modification extending to the contested points of the negotiation, and especially to the privilege assured to the French nation, in relation to other Powers. Nevertheless, the note of the American Ministers proposes an important modification of the seventeenth article: whence, it is evident that this note applies to the second branch of the alternative, which consisted in offering a new treaty without indemnity.

The French Ministers might here insist upon the condition, that every stipulation on the subject of indemnities should be laid aside. Nevertheless, France will give the United States a new proof of her friendly disposition, in consenting to the modification of the treaties, and also to the principle of indemnities, in the manner expressed in the subjoined note; in which the U. States will discover undoubted proofs of the desire of France to effect a speedy and complete reconciliation.

The Ministers of the French Republic have the honor to assure the Ministers Plenipotentiary of the United States of their high consideration.

J. BONAPARTE,
C. P. CLARET FLEURIEU,
RÖDERER.

1. The ancient treaties shall be continued and confirmed; and they shall be carried into execution, in the same manner as if no misunderstanding had taken place between the two nations.

2. Commissioners shall be appointed to liquidate the respective damages.

3. The seventeenth article of the Treaty of Commerce of 1778 shall be preserved inviolate, with the single addition, at the end of the following words: "on the contrary, no shelter or refuge shall be given in their ports or harbors to such as shall have made prize of the subjects, people, or property of either of the parties;" "except in virtue of treaties known at the time of the signature of the present treaty, and subsequent to the treaty of 1778; and this for the space of seven years."

The twenty-second article to contain the same exception as the seventeenth.

4. If, in the space of seven years, the seventeenth and twenty-second articles shall not be offered and accepted in their original force, the indemnities awarded by the Commissioners shall not be paid.

5. The guaranty, stipulated by the Treaty of Alliance, shall be converted into a promise of succor, to the amount of two millions; but this promise shall not be redeemable except by a capital of ten millions.

BONAPARTE,
FLEURIEU,
RÖDERER.

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AUGUST 24.

As the French Ministers dined to-day with Mr. Ellsworth and Mr. Davie, they were requested to attend a conference after dinner, for the purpose of giving some explanations of the propositions subjoined to their note. Mr. Bonaparte and Mr. Fleurieu, mentioning that they had some urgent business at the council, went away, leaving Mr. Rœderer authorized to give any explanation required. After a conversation of some length, during which Mr. Rœderer discovered how unsatisfactory those propositions were to the American Ministers, he suggested the following idea for consideration, viz: "that the option contained in the note of the American Ministers, to extinguish by an equivalent of eight millions of francs certain claims of France under the former treaties, ought to be reciprocal; so that, if the offer should be made by either party, the other should be bound to accept it;" saying that this suggestion ought not to be considered official, as his colleagues were not consulted.

The next day it was reduced into the form of an article, and shown to Mr. Rœderer, to know whether the principle of his proposition was correctly taken; and upon its being stated to him in the form it was supposed to be made the preceding evening, and upon the article being translated, he admitted that he was correctly understood; and then delivered another proposition, which he said had been approved by the Minister of Exterior Relations, to the following effect:

"If, in the space of seven years, the renewal of the 17th and 22d articles, in their full meaning, shall not be offered, the indemnities which the Commissioners may award shall not be paid; and if the renewal of the 17th and 22d articles, in their full meaning, shall be offered within the space of seven years, France shall have the option, between this renewal and an indemnity of eight millions, which shall be paid to her in money, or in obligations given for the payment of indemnities which shall have been awarded by the Commissioners."

NOTE, (said to have been added by the Minister of Exterior Relations.) "It is understood, and shall be stipulated, in conformity with a note of the American Ministers, that, whenever the privilege respecting prizes shall be abolished, as to France and England, by the expiration of the treaty, neither the United States nor France shall again concede it to any Power whatever."

AUGUST 29.

The American Ministers intended to avail themselves of another conference to-day with the French Ministers; but the President of the French Commission and Mr. Rœderer had gone into the country on the 27th, and were not returned this morning; therefore, with the expectation of attracting the earliest attention of the Ministers to the business of the negotiation, the following note was addressed to them and sent to Mr. C. P. C. Fleurieu:

6th Con.—38

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

PARIS, August 29, 1800.

7 o'clock, P. M.

CITIZEN MINISTERS: The Envoys of the United States have given the most serious attention to the note and the propositions enclosed, which the Ministers Plenipotentiary of the French Republic did them the honor to address to them under date of 7th Fructidor; and they regret that they have not been able to consider those propositions in the light they are presented by the French Ministers, as connecting the justice of indemnity with a beneficial modification of the treaties.

The third and fourth propositions leave it optional with France to reject indemnities, while they secure to her, unconditionally, the Treaty of Commerce, with a minute exception, which is so limited by time and other circumstances as to render it of little consideration with either party. With respect to the other treaty, the option to reject indemnities produces no effect whatever; its inconveniences are only to be avoided by a purchase of ten millions; so that, by those propositions, indemnities may be sacrificed, and the treaties remain recognised and confirmed—a measure which, in its operation, would be a complete departure from the principle proposed as the basis of negotiation by the French Ministers, and the abandonment of an object to which the American Ministers are bound to adhere, and upon which their sentiments have never varied.

As to the fifth proposition, it is rendered inadmissible only by an augmentation of the sums proposed by the undersigned Ministers, to extinguish the right of France under the mutual guaranty—a right, indeed, which, if France ever placed a value upon, she must have long since discerned that the abolition of it had become as essential to her interests as to those of the nation which she wishes not to embarrass. Confidently was it presumed by the American Ministers, that, in the equivalent for that right offered by them, there would be seen a liberal regard to the honor of the French Republic, and a still further proof of that desire which has so much sought to facilitate to her an adjustment of existing differences.

The Ministers Plenipotentiary of the United States, having exhausted their efforts to discover, by a spirit of justice and accommodation, the means of accomplishing the desires and realizing the views of both nations, can only now hope to avail themselves of the better directed efforts of the Ministers Plenipotentiary, with whom they have the honor to treat.

The American Ministers, willing to profit even of suggestions, remark that, in a late conference, which respected as well their notes of the 20th of the present month as that of the French Ministers Plenipotentiary of the 7th Fructidor, it was suggested by one of the latter (though not officially, or as a matter upon which the sense of his colleagues had been taken) that the option contained in the first mentioned note, to extinguish, by an equivalent of eight millions of francs, cer-

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tain claims of France under the former treaties, ought to be reciprocal; so that, if the offer should be made by either party, the other should accept it. That principle, if reduced to a form proper to give it effect, it is conceived, would be expressed as follows, viz:

"If the United States shall, at any time, within seven years from the exchange of the ratifications of the present treaty, offer to the French Republic an article of the tenor following, viz:

"It is agreed that the United States shall pay to the French Republic, within seven years from the day of exchanging the ratifications of the treaty of —, eight millions of francs, in money, or such securities as have been or may be issued to citizens of the United States for indemnities under the said treaty, together with interest hereafter, at the rate of — per centum per annum, until the principal shall be discharged; and that, as a consideration of such engagement, the United States shall forever be exonerated of the obligation on their part to furnish succors or aid under the mutual guaranty of the 11th article of the Treaty of Alliance of the 6th of February, 1778; and the rights of the French Republic, under the 17th and 22d articles of the Treaty of Amity and Commerce, of the same date, shall be forever limited to such as the most favored nation shall in these respects enjoy."

The French Republic will accept the same; or, if the French Republic shall, at any time within that term, offer such an article, the United States will accept the same; and, in either case, the article so offered shall become part of the present treaty.

To such a stipulation, in connexion with the first, fourth, fifth and sixth propositions offered by the American Envoys in their note of the 20th of the present month, they would agree, so great is their desire to terminate, without further loss of time, the present negotiation. They pray the Ministers Plenipotentiary of the French Republic to accept the assurances of their high consideration.

O. ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

SEPTEMBER 5.

The following propositions were delivered by Mr. Røderer:

To the Ministers Plenipotentiary of the United States of America at Paris.

PARIS, 17th Fructidor, (4th Sept.,) year 8.

We shall have the right to carry our prizes into the American ports.

A commission shall regulate the indemnities due by each of the two nations to the citizens of the other.

The indemnities which shall be found due by France to the citizens of the United States shall be discharged by the United States; and, as an equivalent, France makes an abandonment of the exclusive privilege resulting from articles XVII and XXII of the Treaty of Commerce, and of the

rights of guaranty resulting from the eleventh article of the Treaty of Alliance.

BONAPARTE,
C. P. C. FLEURIEU,
RØDERER.

Mr. Røderer delivered, at the same time, a paper unsigned, containing the following observations:

The Ministers of the United States appear to have mistaken the sense of the last note of the French Ministers. They imagine that the indemnities may be sacrificed by the propositions of the 7th Fructidor, and the treaties notwithstanding remain completely acknowledged and confirmed. It has always been the intention of the Ministers of France to reserve to her the right of choice between the restoration of her privileges and the payment of indemnities which may be brought against her; so that they have never supposed that she would enjoy privileges without the payment of indemnities, or could pay indemnities without the enjoyment of privileges.

The American Ministers have also misunderstood the private observations of one of the French Ministers. Their sole object was to show that, during the term of seven years, France should possess (agreeably even to the plan of the Ministers of the United States) the right to choose between the re-establishment of the privileges resulting from the seventeenth and twenty-second articles of the Treaty of Commerce, and a sum of at least eight millions, since France regards those privileges as an advantage peculiar to her, and for the abandonment of which she may stipulate as she deems proper.

To avoid the uncertainty which might arise from such a stipulation, hastily reduced to a diplomatic style, the Ministers of France have offered anew a naked draught of their final determination; and they observe that, if the American Ministers agree to the substance of the note, they may settle the form of it in concert with the French Ministers, and even modify the means of arriving at the same end.

SEPTEMBER 6.

The American Ministers being unanimous in the opinion that they could not accede to the propositions under date of the 17th Fructidor, agreed to offer the following articles as the basis of negotiation, and as predicated upon the original overtures of the French Ministers, referring only the determination of the question respecting the treaties and indemnities to the American Government, and postponing that determination no longer than to the time of ratification:

For the Ministers Plenipotentiary of the French Republic.

PARIS, Sept. 6, 1800.

The American Ministers consider the propositions received from the Ministers Plenipotentiary of France yesterday, under date of the 17th Fructidor, as altogether inadmissible. The nearest ap-

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proach to them, which the American Ministers can make, is—

1. The former treaties shall be renewed and confirmed.

2. The obligations of the guaranty shall be specified and limited, as in the first paragraph of their third proposition of the 20th of August.

3. There shall be mutual indemnities, and a mutual restoration of captured property not yet definitively condemned, according to their fifth and sixth propositions of that date.

4. If, at the exchange of ratifications, the United States shall propose a mutual relinquishment of indemnities, the French Republic will agree to the same; and, in such case, the former treaties shall not be deemed obligatory except that under the 17th and 22d articles of that of Commerce, the parties shall continue forever to have for their public ships of war, privateers, and prizes, such privileges in the ports of each other as the most favored nation shall enjoy.

O. ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

SEPTEMBER 8.

The above note was sent on the same day to the French Ministers; no answer, however, being yet received, the following note, requesting an interview, was sent to-day:

To the Ministers Plenipotentiary of the French Republic.

PARIS, *Sept. 8, 1800.*

The Envoys of the United States request the honor of an interview with the Ministers Plenipotentiary of the French Republic to-morrow, at 12 o'clock, at such place as may be convenient to them, in order to learn whether the note of the undersigned of the 6th of the present month can serve as the basis of a treaty, or, if not, whether any further overtures are to be expected on the part of France. They pray the Ministers Plenipotentiary of the French Republic to accept the assurances of their high consideration.

O. ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

SEPTEMBER 9.

Mr. Røderer informed the American Ministers that the conference requested could not take place, owing to the absence of Joseph Bonaparte, the President of the Commission.

SEPTEMBER 11.

The following note was received:

PARIS, *24th Fructidor,*
(*September 11,*) *year 8.*

The Ministers Plenipotentiary of the French Republic will do themselves the honor to meet the Envoys Extraordinary and Ministers Plenipotentiary of the United States, at their residence, *Hotel des Oiseaux*, to-morrow, at two o'clock, P. M.

I pray them to accept the assurance of my high consideration.

J. BONAPARTE.

SEPTEMBER 12.

The American Ministers met this morning to settle the mode of conducting the expected conference, and resolved to press their last propositions to the utmost; and, if the French Ministers should finally disagree to them, without offering any admissible substitute, then, in that case, to offer the written proposition delivered by Mr. Røderer on the 26th of August, in two forms, one connecting the 11th article of the Treaty of Alliance with the 22d and 17th of that of Amity and Commerce, in the option of an equivalent; the other pursuing strictly the original proposition, but connecting it with a modification of the guaranty. Some remarks were also prepared with respect to the operation and effect of a guaranty in the form of the 11th article; it being the object of the American Ministers to discuss the business fully, and, if possible, to press it to a termination.

The French Ministers attended at the hour appointed, and the propositions of the 6th of September were taken up and considered, article by article. The 1st and 3d were agreed to, with some modification of the 3d, as to rules of evidence, which did not vary its principle. The 2d and 4th were considered together, as in some measure connected; and, after considerable discussion, the French Ministers said they were determined not to accede to these, unless an option, perfectly similar and reciprocal, was assured to the French Republic, the operation of which enabled her to get rid of the indemnities, by an offer of abandoning the exclusive privileges. They now openly avowed that their real object was to avoid, by every means, any engagement to pay indemnities, giving as one reason the utter inability of France to pay, in the situation in which she would be left by the present war. The subject of the modification of the guaranty was now particularly pressed in the manner agreed. The conversation on this subject closed by a declaration of the President of the French Commission, that such a modification could not be acceded to without new instructions; that they had no powers to assent to such a stipulation; but that, if the Government should think proper to instruct them to make a treaty on the basis of indemnities and a modified renewal of the old treaties, he would resign sooner than sign such a treaty; adding that, if the question could be determined by an indifferent nation, he was satisfied such a tribunal would say that the present state of things was *war* on the side of America, and that no indemnities could be claimed. The other two Commissioners made similar declarations.

The American Ministers retired a few minutes and agreed that it was now clearly in vain to make any further attempts on this ground, and, of course, useless to bring forward the proposition of Mr. Røderer in any form.

The conference was, therefore, closed by the American Ministers requesting a written answer to the note of the 6th of September.

Relations with France.

Reflections of the American Ministers on their overture respecting the guaranty delivered to the French Ministers, at their conference, on the 12th day of September.

Adopting the universality of modern practice as a rule of exposition, a guaranty which omits to stipulate specific succors does not contemplate any to be furnished, and is, only, on the part of the guarantor, a renunciation of interfering claims, an engagement not to countenance or admit such claims in favor of a third Power, and, generally, an assurance of good offices for the security of the object guarantied, which shall not be onerous to himself.

If, however, the guaranty between France and the United States did in fact contemplate succors, they must have been principally for the latter, who might need them, rather than for the former, who was evidently competent to protect herself; and the mutuality of the obligation to succor could have been intended for little more than to save appearances.

Again, if the ability to furnish succors was to be the measure of them, (and if they were contemplated at all, there could have been no other measure,) much less must have been expected from the scattered agriculturists of a new country than from a nation habitually prepared for war, and one of the most powerful in Europe.

The American Ministers, however, have proposed, not only to render the guaranty specific, but to render the succors equal, and that without taking into account that France will frequently receive, and but seldom have occasion to furnish them. Their offer, it is presumed, in the view of the subject here given, will be sufficiently appreciated. The French Ministers will see in this proposition only those motives of liberal policy, and that sincere spirit of accommodation which have continually actuated the United States towards France; there being no circumstance in the present juncture that would dictate a sacrifice to that object of their convenience or their interests, and nothing in the perspective of the future from which they might augur such a necessity. And the American Ministers presume that France will not raise new obstacles to the progress of the negotiation, by placing a high and unexpected value upon what she really placed none heretofore: it would accord neither with her accustomed magnanimity, nor that conciliatory policy towards the United States which she professes to pursue.

SEPTEMBER 12.

The following note was received from the French Ministers:

PARIS, 26 *Fructidor*,
(13th September,) year 8.

The Ministers of France are unable to depart from the modifications which they had yesterday the honor to propose verbally to the American Ministers, on the subject of their note of the 6th of September, (19th *Fructidor*.) They adhere to these principles:

1. That a stipulation of indemnities carries with it a full and entire recognition of the treaties; and

2. That the abandonment of the advantages and privileges stipulated by the treaties, in consideration of the reciprocal abandonment of indemnities, will be the most useful and honorable arrangement for both nations.

Acting on these principles, the French Ministers persist in the verbal declarations made at the conference yesterday. They will, therefore, proceed to give some explanations on each of the articles of the note of the 6th of September.

I. The ancient treaties shall be recognised and confirmed.

II. The obligations of the guaranty shall be specified and limited, as in the first paragraph of their third proposition of the 20th of August.

III. There shall be mutual indemnities, and a mutual restoration of captured property, not yet definitively condemned, according to the fifth and sixth propositions of that date.

IV. If, at the exchange of ratifications, the United States shall propose a reciprocal abandonment of indemnities, the French Republic will agree to this proposition; and, in this case, the ancient treaties shall not be deemed obligatory; except that, under the 17th and 22d articles of the Treaty of Commerce, the parties shall continue to have, for their vessels of war, privateers, and prizes, in their respective ports, the privileges enjoyed by the most favored nation.

They accede to the proposition contained in the first article.

The second cannot be admitted unless the fourth article shall give to the French Republic the assurance that, if she should propose to the United States the reciprocal abandonment of indemnities, this proposition will be accepted, in consideration of the abandonment of the right of guaranty, resulting from the Treaty of Alliance, and the privileges resulting from the 17th and 22d articles of the Treaty of Commerce. If article four does not carry with it this stipulation, neither article four nor article two can be admitted.

The third has appeared to require some explanations. The Ministers of France understand:

1. Indemnities shall be provided for captures made from individuals, and which shall have been condemned at the time of signing the treaty.

2. That the vessels and national ships, respectively taken, shall be restored or paid for.

3. That the captures made from individuals, and not adjudicated at the time of signing the treaty, shall be adjudicated according to the treaty of 1778, correctly interpreted, as may be agreed on.

Article IV cannot be admitted, as has already been observed, if it does not offer the same rights to France as to the United States; and if it does not preserve the ancient treaties, with the exception of the privileges, and the stipulation of guaranty.

In order to attain this object, and render the second article admissible, the 4th article should be expressed in the following, or some other equiv-

Relations with France.

alent terms: "If, at the exchange of ratifications, the United States shall offer to the French Republic, or if the French Republic shall offer to the United States, the reciprocal abandonment of indemnities, this proposition will be accepted; and, in this case, the engagement of guaranty resulting from the eleventh article of the Treaty of Alliance, and the privileges resulting from articles eleven and twenty-two of the Treaty of Commerce shall be restricted to the advantages which can be enjoyed by the most favored nation.

J. BONAPARTE,
C. P. C. FLEURIEU,
RÖDERER.

SEPTEMBER 13.

The American Ministers being now convinced that the door was perfectly closed against all hope of obtaining indemnities, with any modification of the treaties, it only remained to be determined whether, under all the circumstances, it would not be expedient to attempt a temporary arrangement which would extricate the United States from the war, or that peculiar state of hostility in which they are at present involved, save the immense property of our citizens now depending before the Council of Prizes, and secure, as far as possible, our commerce against the abuses of captures during the present war.

After mature deliberation, the American Ministers resolved to make the overture contained in the following note, which was sent to the Commissioners of the French Republic the same day:

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

PARIS, September 13, 1800.

The undersigned had the honor of receiving the note of the French Ministers of the 26th Fructidor yesterday.

The discussion of former treaties and indemnities, being for the present closed, it must, of course, be postponed till it can be resumed with fewer embarrassments.

It remains only to consider the expediency of a temporary arrangement. Should such an arrangement comport with the views of France, the following principles are offered as the basis of it:

1. The Ministers Plenipotentiary of the respective parties, not being able at present to agree respecting the former treaties and indemnities, the parties will in due and convenient time further treat on those subjects; and, until they shall have agreed respecting the same, the said treaties shall have no operation. In the meantime,

2. The parties shall abstain from all unfriendly acts; their commercial intercourse shall be free, and debts shall be recoverable in the same manner as if no misunderstanding had intervened.

3. Property captured, and not yet definitively condemned, or which may be captured before the exchange of ratifications, shall be mutually restored. Proofs of ownership to be specified in the Convention.

4. Some provisional regulations shall be made to prevent abuses and disputes that may arise out of future cases of capture.

The Ministers of the United States request the honor of an early interview at such time and place as may be convenient to the Ministers Plenipotentiary of the French Republic, and offer them the assurances of their high consideration.

O. ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

SEPTEMBER 19.

A conference was held to-day with the French Ministers, at the opening of which they delivered the following articles as a kind of counterproject:

PARIS, 2 *Complémentaire*,
(19th September,) year 8.

The Ministers of France and those of the United States, finding, at the close of numerous discussions, that they cannot agree, at this time, either respecting the interpretation of the 11th article of the Treaty of Alliance of 1778, and the 17th and 22d articles of the Treaty of Commerce of the same year, or on the subject of the reciprocal indemnities due in consequence of the captures made from the citizens of the two nations, have agreed as follows:

ARTICLE 1. The two parties defer to another time, the discussion of the indemnities, and of the abovementioned articles of the treaties of 1778: in every other particular, these treaties are, by these presents, recognised and confirmed, as well as the Consular Convention of 1778.

ART. 2. The vessels and the privateers, with their prizes, of the two nations, shall be treated, in their respective ports, as those of the most favored nation.

ART. 3. The public ships shall either be restored or paid for.

ART. 4. The property of individuals not yet condemned, shall be adjudicated according to the Treaty of Friendship and Commerce of 1778; in consequence of which, no *rôle d'équipage* shall be required, nor any other proof which is not required by that treaty.

C. P. C. FLEURIEU,
RÖDERER.

These articles were discussed, with the corresponding articles in the propositions of the American Ministers of the 13th of September; and it was agreed to meet from day to day until the business was finished.

SEPTEMBER 24.

The following note was received from the Secretary of the French Legation:

4th *Complémentaire*, (Sept. 21,) year 8.

M. Pichon's compliments to Messrs. Davie and Ellsworth, and sends to them, herewith enclosed, copies of the articles settled. Mr. P. has it in charge from the French Ministers to desire the American Envoys, if they see no impropriety, to communicate what they intend to propose further

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on the fourth principle of the note, in order that the French Ministers may look to it until the next conference, and that the debates after dinner may be the shorter.

If the American Ministers have no objection to this, and they are pleased to forward the articles to Mr. Pichon, he will translate and communicate them to the French Ministers, so that time may be spared, and business, as much as possible, forwarded.

SEPTEMBER 22.

The American Ministers present their compliments to Mr. Pichon, and readily comply with the proposal in his obliging note of yesterday.

They will bring forward, as details under their fourth proposition, the 21st, 22d, 23d, 24th, 25th, 26th, and 28th articles of their former project, with some variation of the 22d and 23d to adapt them to principles already agreed on. These articles, it is presumed, cannot occupy much time, as they have been so long in the hands of the French Ministers, as they are principally drawn from the treaty of '78, and are only varied or enlarged to prevent a repetition of abuses and misunderstandings. It will also be proposed to add to the 24th, the following clause: "Nevertheless, it shall not be required to examine the papers of vessels conveyed by vessels of war, but credence shall be given to the word of the officer who shall conduct the convoy;" principally with a view to check West India privateers, till your Government shall be able to reduce them to obedience.

The American Ministers present their compliments to Mr. Pichon, and now send, agreeably to his request, the 23d article of their former project, varied agreeably to the intimation given in their note to him of yesterday. He will have the goodness to present the article to the French Ministers for their examination. It accommodates their views to subject enemy goods in free bottoms as soon after the ratifications as papers can be furnished, requisite to prevent great embarrassments. It concedes the principle they desire, while it so regulates the exercise of that principle as to render it less distressing to neutral commerce, and, of course, less injurious to France.

SEPTEMBER 23.

ART. 23. And that captures on light suspicions may be avoided, and injuries thence arising prevented, it is agreed that, when one party shall be engaged in war, and the other party be neuter, the ships of the neutral party, that is, such of them as have already left, or which, prior to the 1st day of May next, may leave, the ports of the nation to which they belong, shall be furnished with passports similar to those described in the article, that it may appear thereby that the ships really belong to the citizens of the neutral party. They shall be valid for any number of voyages, but they shall be recalled every year, that is, if the ship should return home within the space of a year. Such ships, being laden, are to be provided not only with passports as abovementioned, but also with certi-

icates similar to those described in the same article, that so it may be known whether they carry any contraband goods. No other paper shall be required, any ordinance or usage to the contrary notwithstanding. And if it shall not appear, from said certificates, that there are contraband goods on board, the ships shall be permitted to proceed on their voyage: if it shall appear from the certificates that there are contraband goods on board any such ship, and the commander of the same shall offer to deliver them up, he shall, notwithstanding, be at liberty to proceed on his voyage, unless the quantity of the contraband goods shall be greater than can be conveniently received on board the ship of war, or privateer; in which case, the ship may be carried into port for the delivery of the same.

With respect to ships which shall leave the ports of the nation to which they belong after the last day of April next, they shall be furnished with passports as abovementioned, and, if laden, shall be furnished with like certificates as beforementioned, excepting that the certificates shall also express to whom the cargo belongs, and of what nation, State, or Prince, the owner is a citizen or subject, that so it may be known if there are contraband or enemy goods on board. No other paper shall be required, any usage or ordinance to the contrary notwithstanding. And if it shall not appear from the last mentioned certificates that there are either contraband or enemy goods on board, the ships shall be permitted to proceed on their voyage: if it shall appear from the certificates that there are contraband or enemy goods on board any such ship, and the commander of the same shall offer to deliver them up, he shall, notwithstanding, be at liberty to proceed on his voyage, unless the quantity of contraband or enemy goods, or of both, be greater than can be conveniently received on board of the ship of war or privateer; in which case, he may be carried into port for the delivery of the same.

If any ship in the predicament first above mentioned shall not be furnished with such passport and certificates as is above required for the same, such case shall be examined by a proper judge or tribunal; and, if it shall be found, from other documents or proofs admissible by the usage of nations, that the ship belongs to the citizens of the neutral party, it shall not be confiscated, but shall be released, with her cargo, (contraband goods excepted,) and be permitted to proceed on her voyage. And, if any ship in the second predicament above mentioned shall not be furnished with such passport and certificates as is above required for the same, such case may be examined by a proper judge or tribunal; and, if it shall be found, from other documents or proofs admissible by the usage of nations, that the ship belongs to the citizens of the neutral party, the same shall not be confiscated, but shall be released, with her cargo, (contraband goods and such as shall be found to be enemy goods excepted,) and be permitted to proceed on her voyage.

The business was now conducted by conference, from day to day until the 30th of September,

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when the Convention was finished, under the title of a "Provisional Treaty." The French Ministers had insisted that the treaty should be signed, under a recognition that the original was in the French language, after the manner of the treaty of '78. As the American Ministers refused to acknowledge this as a precedent, or recognise any prerogative with respect to language, the French Ministers delivered the following note on that subject:

PARIS, 8th Vendemiaire,
(29th September,) year 8.

The Ministers of France insist, in relation to the treaty, upon one of three things:

Either that the treaty shall be signed in the French language only, without any reservation, the mode pursued by the Consular Convention of 1788, between France and the United States, and by the Treaty of 1786, between France and England;

Or, that it shall be signed in the French language only; and that a separate article (similar to the one at the close of the Treaty of 1783, between France and England,) shall stipulate, "That the French language, used in this treaty, shall not constitute a precedent, nor operate to the prejudice of either of the contracting parties;"

Or, finally, that it shall be signed in the French and English languages, accompanied by the following declaration, conforming to the one at the end of the Treaty of Alliance and the Treaty of Commerce of 1778: "In faith whereof, the respective Plenipotentiaries have signed the above articles, both in the French and English languages; declaring, nevertheless, that the present treaty was originally written and concluded in the French language."

The Ministers of France cannot depart from either the one or the other of these forms, or from one by which it will appear, with equal clearness, that the negotiation has been conducted in French, and that the original treaty is in that language. Their reasons are conclusive.

The *first* is, that this has been the usage between France and America, between France and England, between France and many other States, and even between America and other States besides France.

The *second* is, that this usage involves no principle opposed to the equality of the two nations; and that the use of one language, whatever that may be, in a treaty common to several parties, is a mutual advantage, and ought not to be considered as a privilege conferred on the nation to whom the adopted language is most familiar.

These *two* propositions may require a few words in explanation. On the *first*, we will only observe that, in addition to the cited examples of the two treaties of 1778, between France and America, and the Consular Convention of 1788, the United States have used the French language, without hesitation or objection, in treaties with which France had no concern. The Treaty of Friendship and Commerce between the United States and Sweden, concluded at Paris, the 3d of April, 1783,

may be referred to as an instance. May it not be asked, why should the French language be now rejected, after having been adopted as the original in treaties formed by the United States with both France and Sweden?

The *second* proposition is founded upon very obvious considerations.

1st. When two nations or individuals are desirous of terminating differences existing between them, it is natural that they should make their several explanations in a common language, as well for the purpose of avoiding the tediousness and incorrectness of interpretations, as of preventing an increased misunderstanding which might arise from verbal misconstruction.

When public negotiations are carried on between three, four, or five different nations, speaking different languages, the necessity of a common language becomes the more apparent.

Formerly, when Europe had no common language except the Latin, treaties were formed in that language. But since the French, a derivation from the Latin, has become a classical language, it has generally been considered more convenient than the Latin for general use, and has therefore been substituted for the Latin. Hence, the French language has acquired a privilege, if you please, over other languages, but not the French nation. It has acquired this privilege at the expense of the Latin, not of any living language, and still less in prejudice of the rights of any Power whatever. Nations, in acknowledging it as the legitimate successor of the Latin, and in adopting it as their own, have only had recourse to a practice the most convenient to themselves in the exposition, discussion, and expression of their rights; and have thus advanced those rights by yielding up their prejudices.

2d. When two or more parties have been carrying on a negotiation in one language, it is possible to agree that the treaty shall be translated in the language of each of the parties, and signed by all. But, in this case, good sense and common interest require two things: First, that one of the copies, thus signed by all the contracting parties, should be acknowledged as the original: Secondly, that the copy written in the language in which the negotiation was conducted should be regarded as that original.

We say, in the first place, that there must be one original copy. Because, if time and usage should disclose differences of expression, at first unperceived, in the phraseology employed in two copies, written in different languages, (a circumstance which seems inevitable, and has, indeed, occurred in relation to the Treaty of Friendship and Commerce of 1778,) it will be necessary to have recourse to a common version.

We say, in the second place, that the copy, written in the language in which the negotiation was conducted, is the one to which the title of original should be given. The reasons are evident: First in point of fact, it is the original, as it respects the rest, having been first composed, article by article, in the language of the negotiation, as the negotiation itself progressed: Secondly, in

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the event of a discrepancy in expression between two copies of the same treaty, written in different languages, it is the dictate of reason and justice that the contracting parties should have recourse to that expression which was agreed upon and avowed by all, in the language of the negotiation. What is more reasonable than that each should refer to the first expression of his own will, and the faithful signs of his own intentions?

In the adoption, therefore, of the French, as the original language of the treaty, every idea of national prerogative should be discarded, as foreign to the subject. No innovation is urged upon the American Ministers, and no consideration can authorize the Ministers of France to depart from established usage.

C. P. C. FLEURIEU,
RÆDERER.

The American Ministers finally, but with great reluctance, agreed to the signing in the form of the Treaty of 1778, and it was executed accordingly.

OCTOBER 2.

The French Ministers called this morning with the treaties, proposing some alterations, with regard to the style of the French Republic, and that the word "provisional" should be stricken out in the name or description of the treaty. The American Ministers availed themselves of this opportunity to resume their opposition to the admission in favor of the French language, and consented to the proposed alterations, respecting the style of the French Government, and offered to change the term "provisional treaty" for that of "convention," on the condition that that part of the treaty which respected the French language was stricken out, agreeing, at the same time, that a clause might be inserted, saving the right of both nations; to which the French Ministers acceded without any further discussion.

OCTOBER 3.

Six copies being now prepared, as agreed to be amended, they were signed and sealed under the former date of the 30th of September, (9 Vendémiaire;) two copies were retained by the French Commissioners, two were left with Mr. Murray, and the other two were taken in charge by Mr. Ellsworth and Mr. Davie.

OLIVER ELLSWORTH,
W. R. DAVIE.
W. V. MURRAY.

PARIS, October 4, 1800.

SIR: The undersigned have the honor to present to you a journal of their proceedings, and a convention in which these proceedings have terminated.

The claim of indemnities brought forward by them was, early in the negotiation, connected by the French Ministers with that of a restoration of treaties, for the infractions of which the indemnities were principally claimed. To obviate this embarrassment, which it had not been difficult to

foresee, the American Ministers urged, in the spirit of their instructions, that those treaties having been violated by one party, and renounced by the other, a priority had attached in favor of the treaty with Great Britain, who had thereby acquired an exclusive right for the introduction of prizes; wherefore, that right could not be restored to France. The argument was pressed, both by notes and in conferences, as long as there remained a hope of its utility, and until there appeared no alternative but to abandon indemnities, or, as a means of saving them, to renew, at least partially, the Treaty of Commerce. Whether, in fact, it could or could not be renewed consistently with good faith, then became a question for thorough investigation; in the course of which, the following considerations occurred?

1st. It is not a breach of faith to form a treaty with one nation inconsistent with an existing treaty with another; it being well understood that the prior treaty prevails, and has the same operation as if the subsequent one were not formed; nor is it necessary or usual for a subsequent to make an express saving of the rights of a prior treaty, the law of nations having made that saving as complete and effectual as it can be rendered. This rule of construction holds universally, except where the subsequent treaty can have no operation but by violating the first; in which case, it will be taken for an agreement to come to a rupture with the Power with whom the first was formed.

2d. Indeed, by a clause in the twenty-fifth article of the British Treaty, it is provided, "that while the parties continue in amity, neither of them will in future make any treaty that shall be inconsistent with that or the preceding article," which articles contain, among other things, the exclusive right of introducing prizes into the ports of each other. If, however, the British be considered in the light of a prior treaty, as it must be to raise a doubt, all its rights, as well those of a restrictive nature as others, would be saved, of course, and none of them would at any time or in any degree, be affected by the subsequent stipulation. The subsequent stipulation, in the case supposed, although it should give in general terms the right of introducing prizes, would be understood with a limitation, that it was never to extend to a case in which Great Britain should be the enemy.

3d. The instructions to the American Ministers authorized a renewal of the seventeenth article of the Treaty of Commerce, if it should be necessary, though with a special saving for two articles of the British Treaty. That special saving, however, cannot be material, as the settled rule of construction would, without it, make a saving still more comprehensive.

4th. The renewal of the 17th article of the Commercial Treaty is not conceived to be within the expression or design of the restraining clause of the British Treaty, "not in future to make any treaty that shall be inconsistent with," &c. To recognise a pre-existing treaty which contains a stipulation inconsistent with, &c., is not to make a new or future

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treaty containing such stipulation. To recognise the former treaties would be only to preserve or restore the state of things existing when the British Treaty was formed, and not to introduce a new state of things, which was, doubtless, the event intended to be guarded against. It would be only to do what is usually done in the termination of misunderstandings. We are not to presume, and much less is it expressed, that the United States and Great Britain meant to deprive themselves of the usual means of terminating national contests in which they might be involved. And the facility of terminating misunderstandings, by restoring things to their former condition, is not so great, but so conformable to justice, and so favorable to general tranquillity, that the law of nations will not favor a construction which goes to deprive a contracting party of the benefit of it.

5th. The language in which pre-existing treaties are usually recognised at the close of a war does not import that the treaties have in fact ceased to exist, but rather that the causes which suspended their operation have ceased. And in various instances such treaties are counted upon as becoming again operative, without any express provision to render them so.

6th. Nor is it conceived, that the treaties between the United States and France have undergone a more nullifying operation than the condition of war necessarily imposes. Doubtless, the Congressional act, authorizing the reduction of French cruisers by force, was an authorization of war, limited, indeed, in its extent, but not in its nature. Clearly, also, their subsequent act, declaring that the treaties had ceased to be obligatory, however proper it might be for the removal of doubts, was but declaratory of the actual state of things; and certainly it was only from an exercise of the constitutional prerogative of declaring war that either of them derived validity. So that the treaties in question, having had only the usual inoperation, might, without a breach of faith, have the usual negotation.

7th. As far as the opinion of Great Britain goes, there would be no difficulty in recognising a treaty, which gives to France an exclusive right to introduce prizes into the ports of the United States; because she, by a project of a treaty of peace, drawn up at her own Court in 1792, and offered by Lord Malmesbury to the French Plenipotentiaries, proposed to give to France such exclusive right in the British ports; that is, the project renewed the treaties of Paris of 1763, and of 1783, both of which renewed the Commercial Treaty of Utrecht of 1713, which contained such a stipulation.

The foregoing considerations induced the undersigned to be unanimously of the opinion that any part of the former treaties might be renewed consistently with good faith.

They then offered a renewal, with limitations of the seventeenth article of the Commercial Treaty, which, without compromising the interests of the United States, would have given to France what her Ministers had particularly insisted on, as essential to her honor, and what they

had given reason to expect would be deemed satisfactory. The overture, however, finally produced no other effect than to enlarge the demand of the French Ministers, from a partial to a total renewal of the treaties; which brought the negotiation a second time to a stand.

The American Ministers, however, after a deliberation of some days, the progress of events in Europe continuing in the meantime to grow more unfavorable to their success, made an ulterior advance, going the whole length of what had been last insisted on. They offered an unlimited recognition of the former treaties, though accompanied with a provision to extinguish such privileges claimed under them as were detrimental to the United States, by a pecuniary equivalent, to be made out of the indemnities which should be awarded to American citizens. A compensation which, though it might have cancelled but a small portion of the indemnities, was, nevertheless, a liberal one for privileges, which the French Ministers often admitted to be of little use to France, under the construction which the American Government had given to the treaties.

This offer, though it covered the avowed objects of the French Government, secured an engagement to pay indemnities, as well as the power to extinguish the obnoxious parts of the treaties. To avoid any engagement of this kind, the French Ministers now made an entire departure from the principles upon which the negotiation had proceeded for some time, and resumed the simple, unqualified ground of their overture of the 23d Thermidor, declaring that it was indispensable to the granting of indemnities, not only that the treaties should have an unqualified recognition, but that their future operation should not be varied in any particular, for any consideration or compensation whatever. In short, they thought proper to add, what was quite unnecessary, that their real object was to avoid indemnities, and that it was not in the power of France to pay them.

No time was requisite for the American Ministers to intimate that it had become useless to pursue the negotiation any further.

It accorded as little with their views as with their instructions, to subject their country perpetually to the mischievous effects of those treaties, in order to obtain a promise of indemnity at a remote period—a promise which might as easily prove delusive as it would reluctantly be made; especially, as under the guaranty of the Treaty of Alliance, the United States might be immediately called upon for succors, which, if not furnished, would of itself be a sufficient pretext to render abortive the hope of indemnity.

It only remained for the undersigned to quit France, leaving the United States involved in a contest, and, according to appearances, soon alone in a contest, which it might be as difficult for them to relinquish with honor as to pursue with a prospect of advantage; or else to propose a temporary arrangement, reserving for a definite adjustment points which could not then be satisfactorily settled, and providing, in the meantime, against a state of things of which neither party

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could profit. They elected the latter, and the result has been the signature of a convention.

Of property not yet definitively condemned, which the fourth article respects, there are more than forty ships and cargoes, and a number of them of great value, at present pending for decision before the council of prizes; and many others are doubtless in a condition to be brought there, if the claimants shall think fit.

Guards against future abuses are, perhaps, as well provided as they can be by stipulations.

The article respecting convoys may be of use in the West Indies, till it shall be more in the power of the French Government than it is at present to reduce the corsairs in that quarter to obedience.

As to the article which places French privateers and prizes on the footing of those of the most favored nations, it was inserted as drawn by the French Ministers, without any discussion of the extent of its operation; the American Ministers having, in former stages of the negotiation, repeatedly and uniformly declared, agreeably to the rule of construction settled by the law of nations, that no stipulation of that kind could have effect as against the British Treaty, unless the stipulation were derived from former treaties, which it is here expressly agreed shall have no operation whatever. This article, however, is less consequential, as it will soon be in the power of the United States, and doubtless, also, within their wisdom, to refuse to the privateers and prizes of any nation an asylum beyond what the rights of humanity require.

If, with the simple plea of right, unaccompanied with the menaces of power, and unaided by events either in Europe or America, less is at present obtained than justice requires, or than the policy of France should have granted, the undersigned trust that the sincerity and patience of their efforts to obtain all that their country had a right to demand will not be drawn in question.

We have the honor to be, sir, with high respect, your most obedient,

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

Hon. JOHN MARSHALL,
Secretary of State.

Mr. King to the Secretary of State.

LONDON, October 31, 1800.

SIR: The Convention with France, having been published at Paris, immediately found its way into the English newspapers, in which it appeared the day after Mr. Ellsworth's arrival in London; its authenticity being confirmed by him, it became my duty to endeavor, with as much diligence and as extensively as was in my power, to communicate such sentiments and opinions respecting it as would be likely to procure to it a favorable consideration.

After conversing with the Lord Chancellor and some others of the Ministers, I found an occasion to mention the subject to the King: and, though

this was not altogether regular, I had no reason to be dissatisfied with having done so.

After waiting several days, during which I might see and converse with the persons about the Court, I yesterday asked a conference with Lord Grenville, which took place this morning. The conversation began by my observing that I wished to speak with him respecting our reconciliation with France, in order that I might communicate to my Government, which would be desirous to understand the light in which it was considered by the British Government. This beginning led to a free and apparently candid conversation respecting it, which was followed by Lord Grenville saying to me that he saw nothing in the convention inconsistent with the treaty between them and us, or which afforded them any ground of complaint; nor did he perceive in it anything that might not have been expected, unless it was the article respecting convoys, which we were certainly free to make, but which, nevertheless, just at the present juncture, had somewhat of a less friendly appearance than might have been wished. I expressed my satisfaction that I had not been mistaken in believing that the British Government would find nothing to object to in the convention; and remarked, that the article of free bottoms having made a part of the old treaty, it was natural enough that it should be inserted in the new one, and that the provision respecting convoys seemed to be no more than a convenient consequence of that article, by which the visit of the belligerent is not only restrained in its object, but placed under special regulations as to the manner in which it shall be made; and, moreover, that convoys would be indispensable to protect our trade against French corsairs in the West Indies, which could not at present be controlled by France. Lord Grenville had not manifested any marks of disappointment or discontent concerning the convention; showed no inclination to controvert what I had just said; contenting himself by repeating (but without seeming to place much importance upon the observation) what he had before said, with regard to their misunderstanding with the Northern Powers. The subject of convoys being before us, I thought the occasion not an unfavorable one concisely to suggest certain reflections which had passed in my mind concerning it, and which are the foundation of the observations contained in my No. 80. After some general remarks respecting the rights of neutrals and belligerents, I observed that it seemed to me practicable to devise regulations, by which the trade of neutrals might be secured by convoys, without affecting injuriously the right of search. It might, for example, be stipulated that no ship should be entitled to sail under convoy which should not possess a certificate, in an agreed form, attesting her neutrality, and the neutrality and innocence of her cargo; the Consuls or other agents of the belligerent, residing in the neutral countries, might assist in taking the proofs upon which certificate should be granted; and it might, moreover, be settled that the visit of the belligerent should be confined to the convoying

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ship, the commander of which, on exhibiting the certificates of the ships under his convoy, should, with them, be entitled to proceed unmolested. Other regulations might be devised, for places where the agents of the belligerents could not, on account of the war, assist in receiving the proofs of neutrality.

Lord Grenville, without hesitation, admitted the fairness of the project, adding that it would be indifferent to them, as belligerents, whether the examination was made by their agents before the sailing of the neutral ship, or, upon the ocean, by their naval officers.

With perfect respect and esteem, I have the honor to be, sir, your obedient faithful servant,
RUFUS KING.

Extract of a letter from Mr. King to the Secretary of State.

"LONDON, November 22, 1800.

"SIR: Upon the probability of the conclusion of peace, well informed persons continue to differ extremely in their opinions. Austria will make peace if she can make a good bargain, which, as in former wars, she may probably be able to do. England (I mean the Government) desires to make peace with Bonaparte; and, from the language made use of by the English Ministers, one would almost be led to think that she is now willing to countenance and support the First Consul upon the very principles which have induced her to oppose those who have hitherto been at the head of the affairs of France.

"Whatever may have been the temper or inclination of this Government, in a different posture of its affairs, and before the convention with France was published, its sentiments in respect to that instrument, and the distinguished manner in which Mr. Ellsworth has been received by the Court, have a tendency to show that at present it has no animosity nor unusual prejudice against us; on the contrary, those who disseminate its opinions encourage the people to bear their distresses, arising from the dearness of bread, by holding forth to them the abundant harvest of America, and the prospect of a great supply from thence."

The Senate, having considered the foregoing convention with France, adopted the following resolution:

IN SENATE, February 3, 1801.

Resolved, By the Senate of the United States, (two-thirds of the Senators present concurring therein,) that they do consent to and advise the ratification of the convention between the French Republic and the United States of America, made at Paris, the 8th day of Vendemiaire, of the 9th year of the French Republic, (the 30th day of September, Anno Domini 1800:) *Provided*, The second article be expunged and the following article added or inserted:

It is agreed that the present convention shall be

in force for the term of eight years from the exchange of ratifications.

The following Message was thereupon transmitted to the Senate:

UNITED STATES, March 2, 1801.

Gentlemen of the Senate:

I have considered the advice and conduct of the Senate to the ratification of the convention with France under certain conditions. Although it would have been more conformable to my own judgment and inclination to have agreed to that instrument unconditionally, yet, in this point, I found I had the misfortune to differ in opinion from so high a Constitutional authority as the Senate. I judged it more consistent with the honor and interest of the United States to ratify it under the conditions prescribed than not at all. I accordingly nominated Mr. Bayard, Minister Plenipotentiary to the French Republic, that he might proceed without delay to Paris, to negotiate the exchange of ratifications. But, as that gentleman has declined his appointment, for reasons equally applicable to every person suitable for the service, I shall take no further measures relative to this business, and leave the convention, with all the documents, in the office of State, that my successor may proceed with them according to his wisdom.

JOHN ADAMS.

The ratification of the convention which was made by the French Government, is contained in the following translation:

Bonaparte, First Consul, in the name of the French people: The Consul of the French Republic having seen and examined the convention concluded, agreed to, and signed at Paris, the 8th Vendemiaire, ninth year of the French Republic, (30th September, 1800,) by the Citizens Joseph Bonaparte, Fleurieu, and Røederer, Counsellors of State, in virtue of the full powers which have been given to them to this effect, with Messieurs Ellsworth, Davie, and Murray, Ministers Plenipotentiary of the United States, equally furnished with full powers, the tenor of which convention follows:

Approves the above convention in all and each of the articles which are therein contained; declares that it is accepted, ratified, and confirmed; and promises that it shall be inviolably observed.

The Government of the United States having added to its ratification, that the convention should be in force for the space of eight years, and having omitted the second article, the Government of the French Republic consents to accept, ratify, and confirm the above convention, with the addition importing that the convention shall be in force for the space of eight years, and with the retrenchment of the second article: *Provided*, That by this retrenchment the two States renounce the respective pretensions which are the objects of the said article.

In faith whereof, these presents are given. Signed, countersigned, and sealed with the great seal

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of the Republic, at Paris, the twelfth Thermidor, ninth year of the Republic, (31st July, 1801.)

BONAPARTE.

The Minister of Exterior Relations:

CH. MAU. TALLEYRAND.

By the First Consul: The Secretary of State,
HUGUES B. MARET.

The following Message of the President and resolution of the Senate terminate the proceedings upon the convention:

DECEMBER 11, 1801.

Gentlemen of the Senate:

Early in the last month I received the ratification, by the First Consul of France, of the convention between the United States and that nation. His ratification not being pure and simple, in the ordinary form, I have thought it my duty, in order to avoid all misconception, to ask a second advice and consent of the Senate before I give it the last sanction, by proclaiming it to be a law of the land.

TH: JEFFERSON.

IN SENATE OF THE UNITED STATES,
December 19, 1801.

Resolved, That the Senate (two-thirds of the members present concurring therein) consider the convention between the United States and the French Republic as fully ratified.

PRUSSIA.

[Communicated to the Senate, December 6, 1799.]

Gentlemen of the Senate:

I lay before you, for your consideration, a treaty of Amity and Commerce between the United States and the King of Prussia, signed by their Ministers on the 11th of July last.

JOHN ADAMS.

UNITED STATES, Dec. 6, 1799.

A Treaty of Amity and Commerce between His Majesty the King of Prussia and the United States of America.

His Majesty the King of Prussia and the United States of America, desiring to maintain, upon a stable and permanent footing, the connexions of good understanding, which have hitherto so happily subsisted between their respective States, and for this purpose to renew the Treaty of Amity and Commerce, concluded between the two Powers, at the Hague, the 10th of September, 1785, for the term of ten years, His Prussian Majesty has nominated and constituted as his Plenipotentiaries, the Count Charles William de Finckenstein, his Minister of State, of War, and of the Cabinet, Knight of the orders of the Black Eagle and of the Red Eagle, and Commander of St. John of Jerusalem; the Baron Philip Charles d'Alvensleben, his Minister of State, of War, and of the Cabinet, Knight of the orders of the Black Eagle and of the Red Eagle, and of that of St. John of Jerusalem; and the Count Christian Henry Curt de Haugwitz, his Min-

ister of State, of War, and of the Cabinet, Knight of the orders of the Black Eagle and of the Red Eagle: and the President of the United States has furnished, with their full powers, John Quincy Adams, a citizen of the United States, and his Minister Plenipotentiary at the Court of His Prussian Majesty; which Plenipotentiaries, after having exchanged their full powers, found in good and due form, have concluded, settled, and signed the following articles:

ART. 1. There shall be in future, as there has been hitherto, a firm, inviolable, and universal peace, and sincere friendship between His Majesty the King of Prussia, his heirs, successors, and subjects, on the one part, and the United States of America, and their citizens, on the other, without exception of persons or places.

ART. 2. The subjects of His Majesty the King of Prussia may frequent all the coasts and countries of the United States of America, and reside and trade there in all sorts of produce, manufactures, and merchandise; and shall pay there no other or greater duties, charges, or fees whatsoever, than the most favored nations are or shall be obliged to pay. They shall also enjoy, in navigation and commerce, all the rights, privileges, and exemptions which the most favored nation does or shall enjoy, submitting themselves, nevertheless, to the established laws and usages, to which are submitted the citizens of the United States and the most favored nations.

ART. 3. In like manner, the citizens of the United States of America may frequent all the coasts and countries of His Majesty the King of Prussia, and reside and trade there in all sorts of produce, manufactures, and merchandise, and shall pay, in the dominions of His said Majesty, no other or greater duties, charges or fees, whatsoever, than the most favored nation is, or shall be, obliged to pay; and they shall enjoy all the rights, privileges, and exemptions in navigation and commerce, which the most favored nation does, or shall, enjoy; submitting themselves, nevertheless, to the established laws and usages to which are submitted the subjects of His Majesty the King of Prussia, and the subjects and citizens of the most favored nations.

ART. 4. More especially, each party shall have a right to carry their own produce, manufactures, and merchandise, in their own or any other vessels, to any parts of the dominions of the other, where it shall be lawful for all the subjects and citizens of that other freely to purchase them; and thence to take the produce, manufactures, and merchandise of the other, which all the said citizens or subjects shall in like manner be free to sell them, paying in both cases such duties, charges, and fees only, as are or shall be paid by the most favored nation. Nevertheless, His Majesty the King of Prussia and the United States respectively reserve to themselves the right, where any nation restrains the transportation of merchandise to the vessels of the country of which it is the growth, or manufacture, to establish against such nations retaliating regulations; and also the right to prohibit, in their respective countries, the importa-

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tion and exportation of all merchandise whatsoever, when reasons of State shall require it. In this case the subjects or citizens of either of the contracting parties shall not import nor export the merchandise prohibited by the other. But if one of the contracting parties permits any other nation to import or export the same merchandise, the citizens or subjects of the other shall immediately enjoy the same liberty.

ART. 5. The merchants, commanders of vessels, or other subjects or citizens of either party, shall not, within the ports or jurisdiction of the other, be forced to unload any sort of merchandise into any other vessels, nor to receive them into their own, nor to wait for their being loaded longer than they please.

ART. 6. That the vessels of either party, loading within the ports or jurisdiction of the other, may not be uselessly harassed or detained, it is agreed, that all examinations of goods, required by the laws, shall be made before they are laden on board the vessel, and that there shall be no examination after; nor shall the vessel be searched at any time, unless articles shall have been laden therein clandestinely and illegally; in which case, the person by whose order they were carried on board, or who carried them without order, shall be liable to the laws of the land in which he is; but no other person shall be molested, nor shall any other goods, nor the vessel, be seized or detained for that cause.

ART. 7. Each party shall endeavor, by all the means in their power, to protect and defend all vessels and other effects belonging to the citizens or subjects of the other, which shall be within the extent of their jurisdiction, by sea or by land; and shall use all their efforts to recover, and cause to be restored to the right owners, their vessels and effects, which shall be taken from them within the extent of their said jurisdiction.

ART. 8. The vessels of the subjects or citizens of either party coming on any coast belonging to the other, but not willing to enter into port, or who, entering into port, are not willing to unload their cargoes or break bulk, shall have liberty to depart and to pursue their voyage, without molestation, and without being obliged to render account of their cargo, or to pay any duties, charges, or fees whatsoever, except those established for vessels entered into port, and appropriated to the maintenance of the port itself, or of other establishments, for the safety and convenience of navigators; which duties, charges, and fees, shall be the same, and shall be paid on the same footing as in the case of subjects or citizens of the country where they are established.

ART. 9. When any vessel of either party shall be wrecked, foundered, or otherwise damaged, on the coasts, or within the dominions of the other, their respective subjects, or citizens, shall receive, as well for themselves, as for their vessels and effects, the same assistance which would be due to the inhabitants of the country where the damage happens, and shall pay the same charges and dues only as the said inhabitants would be subject to pay in a like case; and if the operations of repair

shall require that the whole or any part of their cargo be unladed, they shall pay no duties, charges, or fees, on the part which they shall relade and carry away. The ancient and barbarous right to wrecks of the sea shall be entirely abolished with respect to the subjects or citizens of the two contracting parties.

ART. 10. The citizens or subjects of each party shall have power to dispose of their personal goods within the jurisdiction of the other, by testament, donation, or otherwise; and their representatives, being subjects or citizens of the other party, shall succeed to their said personal goods, whether by testament, or *ab intestato*, and may take possession thereof, either by themselves or by others acting for them, and dispose of the same at their will, paying such dues only as the inhabitants of the country wherein the said goods are shall be subject to pay in like cases. And in case of the absence of the representative, such care shall be taken of the said goods, as would be taken of the goods of a native in like case, until the lawful owner may take measures for receiving them. And if question should arise among several claimants to which of them the said goods belong, the same shall be decided finally by the laws and judges of the land wherein the said goods are. And where, on the death of any person holding real estate within the territories of the one party, such real estate would, by the laws of the land, descend on a citizen or subject of the other, were he not disqualified by alienage, such subject shall be allowed a reasonable time to sell the same, and to withdraw the proceeds without molestation, and exempt from all rights of *detraction* on the part of the Government of the respective States. But this article shall not derogate in any manner from the force of the laws already published, or hereafter to be published, by His Majesty the King of Prussia, to prevent the emigration of his subjects.

ART. 11. The most perfect freedom of conscience and of worship is granted to the citizens or subjects of either party, within the jurisdiction of the other, and no person shall be molested in that respect, for any cause other than an insult on the religion of others. Moreover, when the subjects or citizens of the one party shall die within the jurisdiction of the other, their bodies shall be buried in the usual burying grounds, or other decent and suitable places, and shall be protected from violation or disturbance.

ART. 12. Experience having proved, that the principle adopted in the 12th article of the treaty of 1785, according to which *free ships make free goods*, has not been sufficiently respected during the two last wars, and especially in that which still continues, the two contracting parties propose, after the return of a general peace, to agree, either separately between themselves, or jointly with other Powers alike interested, to concert with the great maritime Powers of Europe such arrangements and such permanent principles as may serve to consolidate the liberty and the safety of the neutral navigation and commerce in future wars. And if, in the interval, either of the contracting parties should be engaged in war, to which the

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other should remain neutral, the ships of war and privateers of the belligerent Power shall conduct themselves towards the merchant vessels of the neutral Power as favorably as the course of the war then existing may permit, observing the principles and rules of the law of nations, generally acknowledged.

ART. 13. And in the same case of one of the contracting parties, being engaged in war with any other Power, to prevent all the difficulties and misunderstandings that usually arise respecting the merchandise of contraband, such as arms, ammunition, and military stores of every kind, no such articles carried in the vessels, or by the subjects or citizens of either party, to the enemies of the other, shall be deemed contraband, so as to induce confiscation or condemnation, and a loss of property to individuals. Nevertheless, it shall be lawful to stop such vessels and articles, and to detain them for such length of time as the captors may think necessary to prevent the inconvenience or damage that might ensue from their proceeding; paying, however, a reasonable compensation for the loss such arrest shall occasion to the proprietors: and it shall further be allowed to use, in the service of the captors, the whole or any part of the military stores so detained, paying the owners the full value of the same, to be ascertained by the current price at the place of its destination. But in the case supposed, of a vessel stopped for articles of contraband, if the master of the vessel stopped will deliver out the goods supposed to be of contraband nature, he shall be permitted to do it, and the vessel shall not in that case be carried into any port, nor further detained, but shall be allowed to proceed on her voyage.

All cannons, mortars, fire arms, pistols, bombs, grenades, bullets, balls, muskets, flints, matches, powder, saltpetre, sulphur, cuirasses, pikes, swords, belts, cartouch-boxes, saddles, and bridles, beyond the quantity necessary for the use of the ship, or beyond that which every man serving on board the vessel, or passenger, ought to have; and, in general, whatever is comprised under the denomination of arms and military stores, of what description soever, shall be deemed objects of contraband.

ART. 14. To insure to the vessels of the two contracting parties the advantage of being readily and certainly known in time of war, it is agreed that they shall be provided with the sea-letters and documents hereafter specified.

1. A passport, expressing the name, the property, and the burden of the vessel, as also the name and dwelling of the master, which passport shall be made out in good and due form, shall be renewed as often as the vessel shall return into port, and shall be exhibited whensoever required, as well in the open sea as in port. But if the vessel be under convoy of one or more vessels of war belonging to the neutral party, the simple declaration of the officer commanding the convoy that the said vessel belongs to the party of which he is, shall be considered as establishing the fact, and shall relieve both parties from the trouble of further examination.

2. A charter-party; that is to say, the contract passed for the freight of the whole vessel, or the bills of lading given for the cargo in detail.

3. The list of ship's company; containing an indication by name, and in detail, of the persons composing the crew of the vessel. These documents shall always be authenticated, according to the forms established at the place from which the vessel shall have sailed.

As their production ought to be exacted only when one of the contracting parties shall be at war, and as their exhibition ought to have no other object than to prove the neutrality of the vessel, its cargo, and company, they shall not be deemed absolutely necessary on board such vessels belonging to the neutral party as shall have sailed from its port before or within three months after the Government shall have been informed of the state of war in which the belligerent party shall be engaged. In the interval, in default of these specific documents, the neutrality of the vessel may be established by such other evidence as tribunals authorized to judge of the case may deem sufficient.

ART. 15. And to prevent entirely all disorder and violence in such cases, it is stipulated, that, when the vessels of the neutral party, sailing without convoy, shall be met by any vessel of war, public or private, of the other party, such vessels of war shall not send more than two or three men in their boat on board the said neutral vessels, to examine her passports and documents. And all persons belonging to any vessel of war, public or private, who shall molest or insult in any manner whatever the people, vessels, or effects of the other party, shall be responsible in their persons and property for damages and interest; sufficient security for which shall be given by all commanders of private armed vessels before they are commissioned.

ART. 16. In times of war, or in cases of urgent necessity, when either of the contracting parties shall be obliged to lay a general embargo, either in all its ports, or in certain particular places, the vessels of the other party shall be subject to this measure, upon the same footing as those of the most favored nations, but without having the right to claim the exemption in their favor stipulated in the 16th article of the former treaty of 1785. But, on the other hand, the proprietors of the vessels which shall have been detained, whether for some military expedition, or for what other use soever, shall obtain from the Government that shall have employed them an equitable indemnity, as well for the freight as for the loss occasioned by the delay. And furthermore, in all cases of seizure, detention, or arrest, for debts contracted, or offences committed by any citizen or subject of the one party, within the jurisdiction of the other, the same shall be made and prosecuted by order and authority of law only, and according to the regular course of proceedings usual in such cases.

ART. 17. If any vessel or effects of the neutral Power be taken by an enemy of the other, or by a pirate, and retaken by the Power at war, they shall be restored to the first proprietor, upon the conditions hereafter stipulated, in the twenty-first article, for cases of recapture.

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ART. 18. If the citizens or subjects of either party, in danger from tempests, pirates, enemies, or other accident, shall take refuge, with their vessels or effects, within the harbors or jurisdiction of the other, they shall be received, protected, and treated with humanity and kindness, and shall be permitted to furnish themselves, at reasonable prices, with all refreshments, provisions, and other things necessary for their sustenance, health, and accommodation, and for the repair of their vessels.

ART. 19. The vessels of war, public and private, of both parties, shall carry freely, wheresoever they please, the vessels and effects taken from their enemies, without being obliged to pay any duties, charges, or fees, to officers of admiralty, of the customs, or any others; nor shall such prizes be arrested, searched, or put under legal process, when they come to and enter the ports of the other party, but may freely be carried out again at any time by their captors, to the places expressed in their commissions, which the commanding officer of such vessel shall be obliged to show. But, conformably to treaties existing between the United States and Great Britain, no vessel that shall have made a prize upon British subjects shall have a right to shelter in the ports of the United States; but, if forced therein by tempests, or any other danger, or accident of the sea, they shall be obliged to depart as soon as possible.

ART. 20. No citizen or subject of either of the contracting parties shall take from any Power with which the other may be at war, any commission or letter of marque for arming any vessel to act as a privateer against the other, on pain of being punished as a pirate: nor shall either party hire, lend, or give any part of its naval or military force, to the enemy of the other, to aid them offensively or defensively against the other.

ART. 21. If the two contracting parties should be engaged in a war against a common enemy, the following points shall be observed between them:

1. If a vessel of one of the parties, taken by the enemy, shall, before being carried into a neutral or enemy's port, be retaken by a ship of war, or privateer of the other, it shall, with the cargo, be restored to the first owners, for a compensation of one-eighth part of the value of the said vessel and cargo, if the recapture be made by a public ship of war; and one-sixth part, if made by a privateer.

2. The restitution in such cases shall be after due proof of property, and surety given for the part to which the recaptors are entitled.

3. The vessels of war, public and private, of the two parties, shall reciprocally be admitted with their prizes into the respective ports of each: but the said prizes shall not be discharged or sold there, until their legality shall have been decided, according to the laws and regulations of the State to which the captor belongs, but by the judicatories of the place into which the prize shall have been conducted.

4. It shall be free to each party to make such regulations as they shall judge necessary for the conduct of their respective vessels of war, public and private, relative to the vessels which they shall take and carry into the ports of the two parties.

ART. 22. Where the contracting parties shall have a common enemy, or shall both be neutral, the vessels of war of each shall, upon all occasions, take under their protection the vessels of the other going the same course, and shall defend such vessels, as long as they hold the same course, against all force and violence, in the same manner as they ought to protect and defend vessels belonging to the party of which they are.

ART. 23. If war should arise between the two contracting parties, the merchants of either country, then residing in the other, shall be allowed to remain nine months to collect their debts and settle their affairs, and may depart freely, carrying off all their effects, without molestation or hindrance; and all women and children, scholars of every faculty, cultivators of the earth, artisans, manufacturers, and fishermen, unarmed, and inhabiting unfortified towns, villages, or places, and, in general, all others whose occupations are for the common subsistence and benefit of mankind, shall be allowed to continue their respective employments, and shall not be molested in their persons, nor shall their houses or goods be burnt, or otherwise destroyed, nor their fields wasted by the armed force of the enemy, into whose power, by the events of war, they may happen to fall; but if anything is necessary to be taken from them for the use of such armed force, the same shall be paid for at a reasonable price.

ART. 24. And to prevent the destruction of prisoners of war, by sending them into distant and inclement countries, or by crowding them into close and noxious places, the two contracting parties solemnly pledge themselves to the world, and to each other, that they will not adopt any such practice; that neither will send the prisoners whom they may take from the other into the East Indies, or any other parts of Asia or Africa; but they shall be placed in some part of their dominions in Europe or America, in wholesome situations; that they shall not be confined in dungeons, prison ships, nor prisons, nor be put into irons, nor bound, nor otherwise restrained in the use of their limbs; that the officers shall be enlarged on their paroles within convenient districts, and have comfortable quarters, and the common men be disposed in cantonments open and extensive enough for air and exercise, and lodged in barracks as roomy and good as are provided by the party in whose power they are for their own troops; that the officers shall also be daily furnished by the party in whose power they are with as many rations, and of the same articles and quality, as are allowed by them, either in kind or by commutation, to officers of equal rank in their own army; and all others shall be daily furnished by them with such rations as they allow to a common soldier in their own service; the value whereof shall be paid by the other party on a mutual adjustment of accounts for the subsistence of prisoners at the close of the war; and the said accounts shall not be mingled with, or set off against any others, nor the balances due on them be withheld as a satisfaction or reprisal for any other article, or for any other cause, real or pretended whatever; that each party shall be allowed

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to keep a commissary of prisoners, of their own appointment, with every separate cantonment of prisoners in possession of the other, which commissary shall see the prisoners as often as he pleases, shall be allowed to receive and distribute whatever comforts may be sent to them by their friends, and shall be free to make his reports in open letters to those who employ him; but if any officer shall break his parole, or any other prisoner shall escape from the limits of his cantonment, after they shall have been designated to him, such individual officer, or other prisoner, shall forfeit so much of the benefit of this article as provides for his enlargement on parole or cantonment. And it is declared, that neither the pretence that war dissolves all treaties, nor any other whatever, shall be considered as annulling or suspending this and the next preceding article; but, on the contrary, that the state of war is precisely that for which they are provided, and during which they are to be as sacredly observed as the most acknowledged articles in the law of nature or nations.

ART. 25. The two contracting parties have granted to each other the liberty of having each, in the ports of the other, Consuls, Vice Consuls, Agents, and Commissaries, of their own appointment, who shall enjoy the same privileges and powers as those of the most favored nations. But if any such Consul shall exercise commerce, he shall be submitted to the same laws and usages to which the private individuals of their nation are submitted in the same place.

ART. 26. If either party shall hereafter grant to any other nation any particular favor in navigation or commerce, it shall immediately become common to the other party, freely, where it is freely granted to such other nation, or on yielding the same compensation, when the grant is conditional.

ART. 27. His Majesty the King of Prussia, and the United States of America, agree that this treaty shall be in force during the term of ten years from the exchange of the ratifications; and if the expiration of that term should happen during the course of a war between them, then the articles before provided for the regulation of their conduct during such a war shall continue in force until the conclusion of the treaty which shall restore peace.

This treaty shall be ratified on both sides, and the ratifications exchanged within one year from the day of its signature, or sooner, if possible.

In testimony whereof, the Plenipotentiaries before mentioned have hereunto subscribed their names and affixed their seals.

Done at Berlin, the eleventh of July, in the year one thousand seven hundred and ninety-nine.

JOHN QUINCY ADAMS,
CHARLES GUILLAUME,
Comte de Finckenstein.
P. CHAS. D'ALVENSLEBEN,
Minister of State, &c.
CHRETIEN HENRI-CURCE,
Comte de Haugwitz.

The following instructions and correspondence were communicated to the Senate by the Message of 17th February, 1799:

Instructions from the Secretary of State to John Quincy Adams, Minister Plenipotentiary to Prussia.

DEPARTMENT OF STATE, July 15, 1797.

SIR: By inspecting the Treaty of Amity and Commerce, concluded in the year 1785, between the United States and the late Frederick the Second, King of Prussia, you will observe that it was to be in force during the term of ten years from the exchange of ratifications. This exchange took place about the month of September, in the year 1786, and, of course, the treaty has expired.

You will receive herewith a commission containing full powers to renew this treaty in its present form, for another term of ten years, but with the following exceptions, if the same shall be assented to on the part of the King.

1. It will be expedient to omit that part of the sixteenth article which exempts the vessels of each party from embargo, and to render them liable to a general embargo. There is a like clause of exemption in our treaty with Sweden, which occasioned disagreeable comparisons and real inconveniences, when, by a general embargo in 1794, the vessels of all other nations, and of our own citizens, were detained in port.

2. The twenty-third article of our treaty with Prussia forbids the commissioning of privateers to take or destroy the trading vessels, or to interrupt the commerce of the contracting parties, in case a war should arise between them. And, considering the abuses too often committed by privateers, and the spirit in which privateering is commenced and prosecuted, it has sometimes appeared desirable to abolish the practice altogether. But the policy of this principle, as it respects the United States, may well be doubted; we are weak, at present, in public vessels of war, and our actual revenues are not adequate to the equipping of powerful fleets; but we are strong in the number of our seamen, in private wealth, and in the uncommon enterprise of our citizens. Our chief means, therefore, of annoying and distressing a maritime enemy would be our privateers. For these reasons, you will propose, and endeavor to effect, an alteration of the 23d article, and to leave commerce, in case of a war between us and Prussia, to the attacks of privateers.

The principle that free ships make free goods, is also found in the treaty with Prussia, (article 12.) It is a principle that the United States have adopted in all their treaties, (except that with Great Britain,) and which they sincerely desire might become universal; but treaties formed for this object they find to be of little or no avail, because the principle is not universally admitted among the maritime nations. It has not been regarded in respect to the United States when it would operate to their benefit, and may be insisted on only when it will prove injurious to their interest. You will, therefore, propose to abandon it in the new treaty which you are empowered to renew and negotiate with Prussia.

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On the like ground, you are to propose to admit of articles contraband of war; and, among them, to enumerate timber for ship building, tar, pitch, turpentine, and rosin, copper in sheets, sails, hemp, and cordage, and, generally, whatever may serve directly to the equipment of vessels, unwrought iron and fir-planks only excepted.

But, although these alterations appear desirable, yet if the state of things shall, in your judgment, render it expedient not to propose them, or, if proposed, not to insist on them, you will act accordingly. In another period of ten years, it will probably not occasion any material embarrassment between the United States and Prussia, to renew the treaty precisely in its present form. And, at this time, it is peculiarly interesting to us to conciliate the good will of that and other European nations.

Another, and the principal design of the President in this appointment was, to place at Berlin a Minister of your abilities and knowledge in diplomatic affairs, from whom, in the existing situation of Europe, correct intelligence and information highly interesting to the United States might be derived; and who, by his vigilance and sagacity, might find and embrace opportunities to promote their security and welfare.

A third object will be to renew the Treaty of Amity and Commerce between the United States and Sweden; for which, also, full powers are herewith transmitted. By the Swedish Minister at Berlin, or otherwise, you will make known to the Court of Sweden that you are invested with such powers.

The ratifications of the Swedish treaty, it is supposed, were exchanged in the beginning of the year 1784; as, on the 9th of March of that year, Dr. Franklin wrote from Paris to the Secretary of Foreign Affairs that he had made the exchange. In like manner, Mr. Adams wrote from London, on the 27th of October, 1786, that he had been in Holland, and exchanged the ratifications of the Prussian treaty. No documents are found to show the day when the exchange took place.

For the reasons above assigned, in respect to the Prussian treaty, that with Sweden should be altered, in the 17th article, so as to subject the vessels of Sweden, as well as those of other nations, to the effects of a general embargo: enemies' property found on board them to capture and confiscation, as good prize; and ship timber and naval stores (as before enumerated) to be deemed contraband of war. The right of privateering is to remain as already fixed in the treaty with Sweden. I have the honor to be, &c.,

TIMOTHY PICKERING,
Secretary of State.

From the Secretary of State to John Quincy Adams.
DEPARTMENT OF STATE, July 17, 1797.

SIR: In the instructions, dated the 15th instant, relative to your renewing our treaties with Sweden, you see expressed the earnest wishes of the United States that the principle that free ships should make free goods should become universal.

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This principle is peculiarly interesting to us, because our naval concerns are mercantile, and not warlike; and you will readily perceive that the abandonment of that principle was suggested by the measures of the belligerent Powers during the present war, in which we have found that neither its obligations by the pretended modern law of nations, nor the solemn stipulations of treaties, secured its observation; on the contrary, it has been made the sport of events. Under such circumstances, it appeared to the President desirable to avoid renewing an obligation which would probably be enforced when our interest should require its dissolution; and be contemned when we could derive some advantage from its observance.

But it is possible that, in the pending negotiations for peace, this principle of free ships making free goods may be adopted by all the great maritime Powers; in which case, the United States will be among the first of the other Powers to accede to it, and to observe it as a universal rule.

In like manner, if the rigid rule of the law of nations respecting contraband, should be relaxed, and ship timber and naval stores be declared free, we shall eagerly embrace this liberal rule.

The issue of the negotiations for peace, which we suppose to be now pending, will probably be known to you before it will be necessary to finish the renewal of the treaties between us and Prussia and Sweden; and you will conform our stipulations with those two Powers on the points above mentioned, to the result of those negotiations.

But if the negotiations for peace should be broken up, and the war continue, and more especially if, as you have conjectured, the United States should be forced to become a party in it, then it would be extremely impolitic to confine the enterprises and exertions of our armed vessels within narrower limits than the law of nations prescribes. If, for instance, France should proceed from her predatory attacks on our commerce to open war, the mischievous consequences of any other limitations will be apparent. All her commerce will be sheltered under neutral flags, while ours would remain exposed, as at present, to the havoc of her numerous cruisers.

These remarks, added to your instructions, will possess you fully of the principles by which the President desires you may be influenced in renewing the treaties with Prussia and Sweden.

I am, sir, with perfect esteem, &c.,

TIMOTHY PICKERING.

From the Secretary of State to John Quincy Adams.

DEPARTMENT OF STATE,
Philadelphia, March 17, 1798.

SIR: As the war continues, and as it now seems scarcely possible for the United States to avoid becoming a party in it, you will doubtless be determined, by your instructions of the 15th and 17th July last, in renewing our treaties with Prussia and Sweden, and to reject the article in each which stipulates that free ships shall make free

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goods. With this prospect before us, no considerations occur which should induce its admission. But the reasons suggested in those instructions are now strongly enforced by the law of the French Republic before cited,* if, as Mr. Fenwick supposes, though general in its expressions, it is really and exclusively intended to operate against the Americans. In this case, a renewal of that stipulation is positively to be refused. The Swedish and Prussian commerce will then be only on the footing of the commerce of Denmark, with whom we have no treaty; and if we must be involved in the war, it will be desirable that the commerce of those three Powers, in relation to the United States, should rest on one and the same principle. But if this iniquitous French law exists (and we have no room to doubt it) will all the Northern Powers submit to it? We hope not. We hope that the inordinate ambition of France, and avowed design to subjugate all Europe (of which she already calls herself "the great nation" and "the conqueror,") will excite the resistance of all the Powers whom her arms have not reached, and rouse anew those whom the course of events have induced to submit. At present Britain appears to be the only bulwark against the universal domination of France, by sea as well as by land. It is plain that those Powers who have avoided becoming parties in the present war, and have congratulated themselves on their superior policy and good fortune, will finally have no reason to rejoice: they were only reserved for future plunder and oppression. This is now strikingly verified in respect to the United States. Her exactions are as unexpected as her victories have been unexampled. Instead of stipulating for even future compensation for the many millions of which she has authorized her cruisers to rob us, she demands immediate contributions to the enormous amount of her depredations; making them the measure, not of rendering justice, but of increasing her oppression! A full knowledge of her treatment of our Envoys, and of the propositions made to them, would confound her partisans among us, convince our citizens in general of the impossibility of preserving their property and independence but by resistance, and produce general unanimity in the measures requisite for that end: or, if I am mistaken in this opinion, we are already under the yoke of foreign domination.

I have the honor to be, &c.

TIMOTHY PICKERING.

JOHN Q. ADAMS,
Minister, &c., Berlin.

*The following is the law referred to:

1. The character of a vessel, as neuter or enemy, is determined by her cargo. Therefore, all vessels laden with merchandise which has come from England, or her colonies, shall be declared good prize, whoever may be the owner.

2. Every vessel which, in the course of her voyage, shall have entered an English port, shall not enter the ports of the French Republic, except in case of distress, and when that cause shall have ceased, she shall immediately depart.

Correspondence.

List of Letters and Extracts from Letters of John Q. Adams to the Secretary of State, relative to his negotiation of the Treaty with Prussia.

No. 108. Extract, October 31, 1797.

No. 121. Extracts, May 17, 1798.

No. 122. Extracts, May 25, 1798.

No. 128. Extract, July 16, 1798, in which is enclosed a note from John Q. Adams to the Prussian Ministers, dated Berlin, July 11, 1798.

No. 136. Extracts, October 1, 1798, in which is enclosed a note to the Prussian Ministers, dated September 25, 1798.

No. 138. Original letter, October 30, 1798, in which is enclosed a note from Mr. Adams to the Ministers of the King of Prussia.

No. 141. Original letter, December 31, 1798, in which are enclosed two notes, one from the Prussian Minister to Mr. Adams, dated November 29, 1798; the other from Mr. Adams to the Prussian Minister, dated December 24, 1798.

No. 144. Original letter, April 4, 1798, enclosing a note from the Prussian Ministers, dated February 19, 1799, to Mr. Adams, with a copy of their full powers, and Mr. Adams's answer to them, dated March 16, 1799.

No. 147. Extract, May 10, 1799, enclosing a note from the Prussian Ministers, dated April 30, 1799, and the answer of Mr. Adams to them, dated May 4, 1799.

No. 150. Original letter, July 13, 1799, with the treaty perfected.

No. 108.

Extract of a letter from John Quincy Adams, Minister, &c., to Berlin, to the Secretary of State, dated

OCTOBER 31, 1797.

"A few days after I had the honor of writing to you last from London, I received a duplicate of your instructions, dated July 15th, together with a copy of those bearing date the 17th. I shall pay all the attention to them which their importance requires, and the circumstances will admit. It is, however, to my mind very questionable whether it will be expedient to propose the alterations suggested in your letters, except that relative to the embargo. The principle of making free ships protect enemy's property has always been cherished by the maritime Powers who have not had large navies, though stipulations to that effect have been more or less violated. In the present war, indeed, they have been less respected than usual, because Great Britain has held more uncontrolled the command of the sea, and has been less disposed than ever to concede the principle; and because France has disclaimed most of the received and established ideas upon the laws of nations, and considered herself as liberated from all the obligations towards other States which interfered with her present objects, or the interests of the moment. Yet, even during this war, several decrees of the French Convention, passed at times when the force of solemn national engagements was felt, have recognised the promise in

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the Treaty of 1778; and at times it has been in a great degree observed. France is still attached to the principles of the Armed Neutrality, and yet more attached to the idea of compelling Great Britain to assent to them. Indeed, every naval State is interested in the maintenance of liberal maxims in maritime affairs against the domineering policy of Britain. Every instance, therefore, in which these principles are abandoned by neutral Powers, which favor the rights of neutrality, is to be regretted as furnishing argument, or at least example, to support the British doctrines. These observations apply with more weight with regard to the Swedish Treaty than to the other, as I believe Sweden is peculiarly attached to the liberal system, and entertains hopes that it may finally prevail by the concurrence of all the maritime Powers, excepting only Britain."

No. 121.

Extract of a letter from John Quincy Adams to the Secretary of State, dated

BERLIN, May 17, 1798.

"I deem it highly inexpedient to propose any alteration in the principle agreed upon in our present treaty neutralizing enemy's property on board of neutral vessels. It is indeed true, that this stipulation has not, in the course of the present war, been observed by France. But she has uniformly professed her attachment to the principle, and attributed her violation of it to the example and previous practice of her enemy. There is certainly a great inconvenience, when two maritime States are at war, for a neutral nation to be bound by one principle to one of the parties, and by its opposite to the other; and in such cases it is never to be expected that an engagement favorable to the rights of neutrality will be scrupulously observed by either of the warring States. It appears to me, therefore, that the stipulation ought properly to be made contingent, and the contracting parties to a Commercial Treaty should agree that, in all cases when one of the parties should be at war and the other neutral, the bottom should cover the property, provided the enemy of the warring Power admitted the same principle, and practised upon it in their Courts of Admiralty; but, if not, that the rigorous rule of the ordinary law of nations should be observed.

"In truth, I am fully convinced that there is only one Power in Europe averse to the general establishment of the principle favorable to neutrality; a Power which does not even disguise the pretension of domineering upon the ocean, and whose naval force is almost equal to that of all the world besides. It must be admitted, that, so long as she rejects the liberal principle, every agreement of other nations between themselves admitting it, excepting contingently, as above stated, must, if it have any operation, operate altogether in her favor, and to her advantage; for while it gives her the benefit of a safe and protected neutral conveyance of her goods, it refuses the same to her enemy."

No. 122.

Extracts from a letter of John Quincy Adams to the Secretary of State, dated

BERLIN, May 25, 1798.

"I shall be guided by your instructions relative to the stipulations upon the subject of neutral commerce, though I have very recently written that, in my own opinion, the proposal of an alteration would be inexpedient. The reasons for my opinion are given in my last letter. Sweden and Prussia are both strongly attached to the principle of making the ship protect the cargo. They have more than once contended that such is the rule even by the ordinary laws of nations. A Danish author of some reputation, in a treatise upon the commerce of neutrals in time of war, lays it down as a rule, and argues formally, that, by the law of nature, free ships make free goods. *Lampredi*, a recent Florentine author, upon the same topic, has discussed the question at length, and contends that, by the natural law in this case, there is a collision of two rights equally valid; that the belligerent has a right to detain, but the neutral an equal right to refuse to be detained. This reduces the thing to a mere question of force, in which the belligerent, being ready armed, naturally enjoys the best advantage. I confess the reasoning of *Lampredi* has, in my mind, great weight, and he appears to have stated the question in its true light."

"I intend to propose a conditional article, putting the principle upon a footing of reciprocity, and agreeing that the principle, with regard to bottom and cargo, shall depend upon the principle guiding the Admiralty courts of the enemy. This will at once discover our own inclination and attachment to the liberal rule, and yet not make us the victims of our adherence to it, while violated by our adversaries. Whether the other party will, in either instance, accede to this, I cannot undertake to say; but you may be assured that, after your last instructions, I shall not accede to the renewal of the articles under their form in the previous treaties."

No. 122.

To their Excellencies the Ministers of State and of the Cabinet of the King.

The subscriber, Minister Plenipotentiary of the United States of America, upon his arrival at Berlin, had the honor to deliver to their Excellencies a copy of the full power with which he is charged, on the part of the United States, to renew the Treaty of Amity and Commerce between His Majesty and the United States, with such alterations as may be agreeable to both parties mutually.

He has now that of communicating to their Excellencies the alterations which he is ordered to propose, on the part of his Government, and to add some observations upon the motives which gave occasion to those propositions.

The twelfth article of the former treaty declares, that in case either of the high contracting

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parties should be at war with another Power, enemy's property, on board of the neutral vessel, shall not be subject to be made prize. It is proposed to substitute, instead of this rule, that of the ordinary law of nations, which subjects to seizure enemy's property on board of neutral vessels.

The Government of the United States is not unaware, that the principle which communicates to the cargo the character of the vessel, would be conformable to the interests of the United States, as they are persuaded it would be to those of Prussia, and all the Powers preserving neutrality in maritime wars, if it could be universally acknowledged and respected by the belligerent Powers. But it is known that the Powers most frequently engaged in naval wars do not recognise, or do not respect, the principle. The United States have had, during the present war, the experience that, even the most formal treaty did not suffice to secure to them the advantage of this principle; but, on the contrary, only contributed to accumulate the losses of their citizens, by encouraging them to load their vessels with merchandise declared free; which they have, notwithstanding, seen taken and confiscated, as if no engagement had promised them all security.

At the present moment neither of the Powers at war admits the freedom of enemy's property on board of neutral vessels. If, in the course of events, either of the contracting parties should be involved in war with one or the other of those Powers, she would be obliged to behold her enemy possess the advantage of a free conveyance for her goods, without possessing the advantage herself, or to violate her own engagements, by treating the neutral party as the enemy should treat her.

It is for the same reason proposed, instead of the thirteenth article of the former treaty, to admit a list of contraband of war, and to comprise in it ship-timber, tar, pitch, turpentine, and rosin, copper, (in sheets,) sails, hemp, cordage, and generally everything serving for the equipment of vessels, unwrought iron and fir planks excepted. These two changes indicate several additional articles, naturally proceeding from them: as, for instance, a designation of the papers which shall be necessary to ascertain the neutrality of vessels and their cargo; and, likewise, the restrictions proper to prevent the armed vessels of the belligerent Power from abusing the privilege of arresting neutral vessels, and seizing the enemy's property found on board.

By the sixteenth article of the former treaty, the vessels of the subjects or citizens of each of the high contracting parties, in the ports of the other, are declared exempt from all embargo. It is proposed, in the treaty, to subject them to every general embargo, which the respective Governments may judge necessary. This proposal is founded upon the necessity under which both Governments are supposed alike liable to find themselves, of imposing, from time to time, a general embargo upon all the vessels either in all its ports, or in certain particular ports; exceptions, then, might defeat the advantages which might be expected from this measure, and may, besides,

give occasion to comparisons, which one would wish to avoid, on the part of other nations, whose vessels would be detained with those belonging to the nation itself where the embargo should be laid.

The nineteenth article will require some alteration. By the present engagements of the United States, no vessel that shall have made either English or French prizes can obtain an asylum in the ports or harbors of the United States.

A modification of the twentieth article may declare that it shall not be understood to invalidate the guaranty of the French possessions in America, stipulated by the United States in their Treaty of Alliance with France, bearing date 6th February, 1778.

It is proposed to omit the last clauses of the twenty-third article, which declare, that, in case of war between the high contracting parties, the merchant and trading vessels shall not be subject to capture. This stipulation, being of little importance as to the high contracting parties, between whom no probability of war, no opposing interests which might lead to it, appear to exist; it is, therefore, in regard of other nations, who may require similar conditions when they might import very different consequences, that this engagement is desired to be omitted.

The twenty-fifth article of the former treaty grants mutually the faculty of keeping Consuls and Vice Consuls, agents and commissaries, in the respective ports: it adds, that their functions shall be determined by a particular agreement, when either of the parties shall appoint to such office. It would, perhaps, be well to stipulate that they shall enjoy the same privileges and powers as those of the most favored nations.

The duration of the new treaty may, like that of the old one, be limited to ten years, reckoning from the day of exchanging the ratifications, with the same faculty of renewing it again at the expiration of that period.

In submitting these observations and propositions to their Excellencies, the subscriber requests them to accept the assurance of his respect and high consideration.

JOHN Q. ADAMS.

Berlin, July 11, 1798.

No. 128.

Extracts of a letter from John Q. Adams, Esq., dated Berlin, 16th July, 1798, to the Secretary of State.

"On the 11th I delivered to Count Finckenstein, first Minister in the Department of Foreign Affairs, a memorial of which I herewith enclose a translation. I would send, at the same time, a copy of the original French, but I do not think it would be prudent to send it unciphered, and I have no French cipher with you: I presume you will not judge it material. I hope you will find it exactly conformable to your instructions and intentions. The proposal for abandoning the principle of making free ships cover enemy's property, I have repeatedly informed you will not be acceptable: still less will that of a large list of con-

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traband, especially comprehending many of the most material articles of Prussian exports. I have said, however, all that occurred to me as calculated to show that these would be but equitable alterations. If these proposals should be accepted, I have mentioned the necessity of some additional articles designating the papers that shall be deemed necessary to prove the neutrality of vessels and their cargoes, and to abuses by the armed vessels of the warring Power. The former treaty mentions the necessity of passports, but leaves their forms unsettled."

"I proposed an alteration of the nineteenth article, which appeared to me necessary to render it conformable to the twenty-fifth article of our treaty with Great Britain; and a modification of the twentieth, which might otherwise be liable to a collision with the guaranty in our treaty with France; although this treaty has, in numberless instances, been violated by the French Government, as it has not been declared by our Government formally dissolved, but as they have, on the contrary, invariably respected it, I thought the stipulation deserved attention."

"The twenty-fifth article referred to a future arrangement at the time when Consuls should be named. As this nomination had taken place, and no arrangement was made, an alteration of the article became necessary. I found, in our treaty with Spain, a precedent for what I proposed; and I believe it is what on our part is conceded alike to all foreign Consuls by law."

No. 136.

Extracts of a letter from John Q. Adams, Esq. to the Secretary of State, dated Berlin, Oct. 1, 1798.

"I have the honor to enclose herewith a copy of a note from the Department of Foreign Affairs here, in answer to mine of 11th July, with the proposals for the renewal of the treaty, which has heretofore been forwarded to you."

"The objections to the changes which, conformably to your instructions, I proposed, are those which I have constantly expected, and repeatedly announced."

"I shall reply to this note as soon as possible; but if you do not think it advisable to renew the stipulation for making the bottom cover the property, and for excepting at least ship timber from the list of contraband, I have no sort of expectation that either treaty will be renewed. At present, I consider myself as expressly forbidden from acceding to their proposal for renewing the twelfth article as it is, and have no idea that they will consent to leave it out."

[Referred to in Mr. Adams's despatch of Oct. 1, 1798.]

Messrs. Finckenstein, Alvensleben, and Haugwitz,
to Mr. Adams.

BERLIN, 25th September, 1798.

We have considered with great attention the official note which Mr. Adams, Minister Plenipotentiary of the United States of America, has transmitted to us the 11th of July of the present

year; and, after having discussed the objects of that note with the departments to which they relate, we now reply to it in detail.

The King could not but receive with due sensibility the desire manifested by the United States to cultivate with him the relations of friendship and good will, which have, until this time, subsisted between Prussia and the American Republic, and his Majesty is therefore well disposed to renew the Treaty of Commerce concluded at the Hague, the 10th of September, 1785; and to adopt in it the changes and modifications which the actual circumstances and the respective interests of the two contracting Powers may render necessary.

With this view, we have examined the propositions just made by the Minister Plenipotentiary of the United States, and we have the honor to communicate the observations to which they have given rise.

The first alteration proposed in his note relates to the 12th article of the ancient treaty, where it is said, "that, in case one or the other of the contracting parties shall be at war with any other Power, the vessels of the neutral Power may navigate in perfect safety in the ports and upon the coasts of the belligerent Powers; free ships making the merchandise free."

For this rule, the United States desire to substitute the following: "That all the property of enemies on board neutral vessels ought to be subject to seizure; and that neutral property on board enemies' vessels should remain free."

It cannot be denied that the ancient principle of the freedom of neutral navigation has been little regarded in the two last wars, and especially in that now carried on; but it is not the less true, that it served until the present time as a foundation and guide to the commerce of all neutral nations; and that, in consequence, it has been, and still is, followed and maintained. If, in the midst of the war now waging, its sudden abandonment and destruction should be advised, the following results might be expected:

1. Inevitable confusion would arise in all the commercial speculations of neutral nations, and the finishing blow would be given to the remonstrances and proceedings which are still urged, in numerous instances, both in England and France, for illegal captures.

2. We should directly oppose the Northern Powers, who maintain, to this very time, the ancient principle of armed convoys.

3. Nothing would be gained by establishing at the present period, the principle that neutral property on board enemies' vessels should be free. Neutral Powers would admit this principle with as much reluctance as the belligerent; and this would constitute an additional reason to authorize the judicial condemnation of the prizes made in contravention of the ancient rule.

4. Finally, supposing for an instant that the great maritime Powers of Europe should wish to acknowledge hereafter the principle substituted by the United States, it would only multiply the embarrassments in the proceedings against the

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privateers; for while, formerly, the character of the vessel decided at the same time that of the cargo, it would be necessary in future, to distinguish the one from the other, and provide separately the proofs of each.

All these difficulties combined prevent us from acceding to the alteration proposed by Mr. Adams; and we submit to his consideration, whether it would not suit the reciprocal interests of the two high contracting parties, as well as the interests of their commercial citizens and subjects, to suffer the twelfth article to remain provisionally as it is, in conformity with the system which they have maintained to the present time; and to add the eventual stipulation, "that, experience having unfortunately shown, in the course of the existing war, that the ancient principle of free neutral navigation has not been sufficiently respected by the belligerent Powers, the two high contracting parties, upon the return of a general peace, reserve the right of deciding definitely on this subject, either separately between themselves, or conjointly with other interested Powers, in order to concert, with the great maritime Powers of Europe, such arrangements as might serve to establish, in subsequent wars, upon fixed and permanent rules, the liberty and safety of neutral navigation." Mr. Adams proposes, also, to insert, in the thirteenth article, a specific list of the objects which shall be considered contraband in time of war, and to comprehend in it "ship timber, tar, pitch, turpentine, and rosin, copper in sheets, sails, hemp, cordage, and generally all that serves to the equipment of vessels, unwrought iron and fir planks excepted."

If an attempt should be made to specify, in the new treaty, the articles of contraband, we are obliged to adhere to those which have been considered and adopted as such in the maritime convention concluded with Prussia and Russia, the 8th of May 1781, after the example of the Treaty of Commerce and Navigation formed between Russia and Great Britain, the 20th of June, 1766. The eleventh article of this last mentioned treaty declares contraband, "cannon, mortars, fire-arms, pistols, bombs, grenades, bullets, balls, fusils, flints, matches, saltpetre, sulphur, hauberks, pikes, swords, sword belts, cartridge boxes, saddles and bridles, or whatever each man, serving on board a vessel, should be furnished," &c.

This list has been the foundation of those rules of maritime commerce which we have always followed, as well in former wars as in the war now carried on; and it appears to us to embrace all the articles which appertain in reality to contraband property, so called. If this list is susceptible of additional extension at all, we can never consent to its comprehending ship timber, one of the principal productions of the Kingdom of Prussia, and always regarded, in all maritime wars, as an object of unrestricted commerce.

On the other hand, we willingly agree with Mr. Adams, that it will be useful and necessary to designate with precision, in the fourteenth article, the papers and documents with which the master of every vessel should be furnished, in

order to establish the neutrality of the vessel and cargo. This should be done according to the usages admitted in our maritime tribunals.

1. The document showing the construction of the vessel, (building letter) or, in its absence, the contract of purchase. The original, or a certificate copy of either the one or the other.

2. The sea-letter, which, within the dominions of the King, is generally issued, for the term of one year, by the provincial officers appointed to inspect the affairs of the maritime commerce. It may be ordered, also, that the sea-letter ought to be renewed every time the vessel shall return to the port from whence she sailed.

3. The register of the crew.

4. The charter-party, or the contract, passed in bulk, for the freight of every vessel; or, where this is deficient, the proof in detail of what the cargo contains.

The change proposed in the fourteenth article is predicated on the suppression of the clause which, in case of a general embargo, would establish an exemption in favor of vessels belonging to the subjects or citizens of each of the two contracting parties. If the interests of the United States, and particular considerations, require in reality, a similar modification, the King will, on his part, accede to it. It will be just, however, to add a stipulation that, in these cases, the ships of the two nations, respectively, shall be treated equally with those of the most favored nation; and that an equitable indemnity should be granted to them as well for the freight as for the losses occasioned by detention.

Nor do we perceive any objection to the alterations proposed by articles XIX and XX, in order to adapt them to the relations subsisting between France and the United States. It may be declared, also, in article XIX, for the greater clearness and safety, that, among the prizes that may be carried into the ports and harbors of the United States, no neutral vessel or cargo shall be found among them, and still less when the property of Prussian subjects. The twenty-third article, which protected the merchant vessels from every species of capture, has, no doubt, been dictated solely by considerations of humanity and benevolence, and it will not be expunged without regret; but, inasmuch as this pleasing theory can with difficulty be enforced, it only remains to renounce it, whenever it can be done consistently with the political interests of the United States.

We acquiesce in the proposed addition to the twenty-fifth article, by which the Consuls of the two Powers, respectively, shall enjoy the same rights and privileges with those of the most favored nation; and we adopt again, for the duration of the treaty, the term of ten years, reckoning from the exchange of ratifications, and providing for its renewal at the expiration of that time.

We believe that, in the present note, we have replied fully to all the propositions which Mr. Adams has been charged to make; and we leave to him the care of transmitting to the United States the counter propositions and observations

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herein contained. We shall be ready, at any time thereafter, to resume the negotiation, and also to conclude the treaty whenever he may desire it.

FINCKENSTEIN,
ALVENSLEBEN,
HAUGWITZ.

To Mr. ADAMS, *Minister, &c. of the U. S.*

No. 138.

BERLIN, Oct. 30, 1798.

SIR: I have the honor to enclose a copy of the note, which I this day delivered to Count Finckenstein, in reply to the answer of the Cabinet Ministry to my former note of 11th July. Before I delivered it, I had two conferences with Count Haugwitz, concerning the subject matter of it. He professed himself highly satisfied with the within note, and assured me that there would not be the least objection made to expediting the business without waiting for further instructions to me from America. The proposal, to say nothing in the treaty relative to the property of enemies on board of neutral vessels appeared to have his assent altogether. I hope the answer to this note will not be delayed quite so long as that of the last; but as to what its tenor will be, I beg leave to refer you to my former letters, (No. 136, and those preceding it,) relative to this business. I have had no reason to alter my opinions therein expressed.

I have the honor to be, very respectfully, sir,
your very humble and obedient servant,

JOHN Q. ADAMS.

The SECRETARY OF STATE.

[Enclosed in No. 138.]

From Mr. Adams to Messrs. Finckenstein, Alvensleben, and Haugwitz.

BERLIN, October 29, 1798.

The undersigned, Minister Plenipotentiary of the United States of America, considers it his duty to submit to the consideration of their Excellencies, the following observations on the subject of the objections presented, in the reply of their Excellencies to the note which he had the honor to transmit to them, dated the 11th of July of the present year, proposing certain alterations in the treaty about to be renewed between His Majesty the King of Prussia and the United States.

The principle on which is founded the proposed change respecting the security of enemy's property on board of neutral vessels, is, that, by the law of nations, in times of maritime war, the property of enemies on board of neutral vessels is subject to capture, and that the property of neutrals on board of enemies' vessels is free; that this rule cannot be changed, except by the general consent of all the maritime Powers, or by separate treaties, the stipulations of which cannot extend beyond the contracting parties; that the opposite principle, the establishment of which ought to be one of the principal objects of the Armed Neutrality, was

not universally acknowledged even during the period of the American war; and, during the existing war, has not been maintained by any of those Powers which, at that time, acceded to this system; that Prussia, herself, while one of the belligerents in the last war, did not admit it; and that, to the present moment, the ancient principle of the law of nations subsists in all its force among all the Powers, except in the case where the opposite rule is stipulated by the engagements of positive treaty.

In proposing, then, to acknowledge the freedom of neutral property on board the vessels of enemies, and to acknowledge as subject to capture the property of enemies on board neutral vessels, it is only desired to confirm, by treaty, the principles which exist, even at the present moment, independently of all treaties: it is intended, not to make a change in the existing state of things, but to avoid one.

Far from wishing to prescribe on this point to the belligerent Powers, it is not supposed that an agreement between Prussia and the United States could, in any manner, serve as a rule for other Powers, not being parties to the treaty, in order to legalize prizes; and, as the effect of this convention, even between the high contracting parties, could only extend to the future, without being retroactive, it is still less imagined that the reclamations and proceedings of the subjects of neutral Powers, whether in England or in France, would be at all regarded.

Nor has the idea ever occurred that this measure could come in conflict with the Powers of the North, who could not be bound by a treaty to which they would not be the contracting parties; besides, this opposition could not extend to Russia, since, far from sustaining the principle that the flag ought to protect the property, she has engaged, by her convention with Great Britain, dated the 25th of March, 1793, to employ all her efforts to prevent its being carried into effect during the existing war.

Sweden and Denmark reciprocally engaged, in the view of all Europe, by their convention dated the 27th of March, 1794, to lay no claim, in cases not provided for in treaties, to any advantage which shall not be supported by the universal law of nations, "recognised and respected to the present time, by all the Powers and all the Sovereigns of Europe." It is not conceived possible to comprehend, under this description, the principle that the property should follow the destiny of the flag under which it sails; and, it may be added, that constant experience has demonstrated the insufficiency of the protection afforded by armed convoys to this principle, since we have seen them follow their convoys regularly, without resistance, into the ports of the belligerent Powers, there to be adjudged according to principles established in their tribunals entirely opposed to the one which makes the vessel neutralize the cargo.

According to the settled usage of the tribunals of all the maritime Powers, the proofs of the character of the cargo ought to be distinct from those which concern the vessel. Even in the treaties

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which adopt the principle that the flag protects the property, it is common to stipulate for papers which designate the cargo, for the purpose of proving that it is not contraband. The charter-party, or the bill of lading, is among the papers required by the Prussian maritime tribunals, and which it is proposed to designate as necessary in the new treaty. It seems, then, that the adoption of the principle in question would not exact a single additional paper, and, consequently, would add nothing to the embarrassment of the proceedings against the armed vessels; or, at least, so little as to be considered a slight inconvenience in comparison with the losses and sufferings occasioned by the recognition of a principle which has been abandoned by all the maritime Powers, and which not one of them has effectually maintained; of a principle by which the high contracting party who might be at war would be disadvantageously bound, whilst her enemy would disregard it altogether, and the neutral would present to her citizens or subjects the allurements of a free commerce, only to see it interrupted, intercepted, and destroyed.

But, as the opinions entertained by this Government appear to differ from those of the Government of the United States on the subject of the principles prescribed by the law of nations, and, as it appears to their Excellencies that many inconveniences may result from the substitution of a principle opposed to the one contained in the ancient treaty, the undersigned has the honor to propose to omit entirely this part of the article, and on this point to enter into no engagement whatever; this will leave it in the state in which it formerly stood, without requiring of either of the high contracting parties any stipulation on the subject. And as the establishment of a stable and permanent principle, with the hope of seeing it respected and maintained in future wars, is an object important to commerce in general, and especially to that of the high contracting parties, the undersigned will readily consent to an eventual stipulation similar to that which their Excellencies propose, which, without implying, on the one part or the other, the admission of a contested principle, will defer a decision upon the subject to the period which will follow a general peace, either by an agreement between the high contracting parties, or in concert with the Powers who are interested in its adjustment. At the same time, the United States will be always disposed to adopt the most extended principles which can be desired in favor of the freedom of neutral commerce in time of war, from the moment that they can flatter themselves with seeing it adopted and recognised in a manner to insure its execution.

As to the list of contraband, the undersigned is persuaded that his Government has only been desirous to specify the articles enumerated in his last note, because they have been considered in the class of contraband articles by the laws of nations, independently of treaties. But, inasmuch as ship-timber constitutes an object so important to the commerce of Prussia, he is persuaded that in consenting to exclude it from the proposed list,

and thus furnishing the evidence of a desire to conform to the wishes of His Majesty's Government, he will not fail to receive the entire approval of his own.

By the laws and usage of the United States, their vessels ought to be provided with the papers and documents designated by their Excellencies as required by the maritime tribunals of Prussia, such as the sea-letter, the charter-party, or the bill of lading; and, instead of the *beil-brief*, a certificate of the registration, signed by a public officer, and which proves the ownership of the vessel, as well as the time of her construction. Not one of the commercial treaties which have been formed by the United States, to the present time, requires the muster-roll. A great proportion of the remonstrances now made in France, by citizens of the United States, against the depredations of French privateers, are founded on the seizure of their vessels, with their cargoes, for not having been furnished with the muster-roll, a document not required by the treaty with France. If it were possible that foreign tribunals could avail themselves of a convention between Prussia and the United States only, as the pretext of their decisions upon prizes previously made, and concerning which another treaty prescribed the rule, some reason would exist for hesitation in admitting the muster-roll among the papers which it is proposed to specify in the treaty. No difficulty, however, will arise on this point. But, in order to avoid the multiplication of papers, he submits to the consideration of their Excellencies, whether it will not suffice to designate, in addition to the charter-party, or the bill of lading, and the muster-roll, the sea-letter, adding to it the name, the ownership, and the port of the vessel, with the name and residence of the captain, without at the same time requiring the "document of construction," which could only serve to repeat the same proofs.

The condition, that, in the event of an embargo, the ships of the high contracting parties shall receive the same treatment with those of the most favored nation, (with the exception of those exempted by a reciprocal engagement from all embargoes,) and shall receive an equitable indemnity on account of the freight, and for the losses occasioned by detention, is in itself too just to occasion any difficulty.

A reciprocal stipulation not to admit in the ports of one of the high contracting parties the prizes taken from the other, will be equally acquiesced in, as far as is compatible with the prior engagements of the United States, who, by several treaties, have agreed with other Powers for the reciprocal admission of prizes in the ports of each other.

In submitting these observations to the judgment of their Excellencies, the undersigned cannot refrain from tendering his own acknowledgments, as well as the satisfaction which he has no doubt will be felt by his Government, for the readiness with which they have acceded to the other alterations it became his duty to propose. The United States will see in this an unequivocal proof of the good will and friendship of His Majesty.

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which they cannot estimate too highly. If the present observations and propositions shall have the good fortune to receive the assent of their Excellencies, he hopes that they will be willing to pursue this object, and to put their last hand to the work, without waiting the return of a correspondence so remote as that with the United States. Without wishing to hasten their decision, or to manifest impatience upon a subject which appears to his Government important, he has to regret the delays which have been already caused by events in the course of the negotiation with which he has the honor to be charged. He considers it, therefore, a duty which he owes to his Government and country, to solicit the consent of their Excellencies to permit no further delay to the termination of this business, which may not be required by urgent and indispensable considerations.

JOHN Q. ADAMS.

To the MINISTERS OF STATE, &c.

No. 141.

BERLIN, *December 31, 1799.*

SIR: I have now the honor to enclose copies of the answer of the Cabinet Ministry to my note of the 29th of October, concerning the renewal of the commercial treaty between the United States and Prussia, and of my reply, which I presented to Count Finckenstein on the 25th instant. During the interval from the time when I received the answer, I had repeated conversations with Count Haugwitz upon the subject, and the substance of my reply was founded upon the result of those conversations.

You will observe, by these papers, how tenaciously this Government adheres to the principle of making neutral bottoms cover enemy's property in time of war, and to the very limited list of contraband contained in the treaty of 1766 between Russia and Great Britain. At the time when Frederic II. acceded to the Armed Neutrality, having no commercial treaty with any of the then belligerent Powers, he adopted this list as that which was most favorable to neutral interests, and it has ever since been considered here as the criterion of contraband. After having given up, in my last note, the article of timber for ship-building, I should most probably have abandoned the other naval stores in the present, had not your letter of September 24, expressed so much indifference whether the treaty should be renewed at all. I shall yet abandon them if this Government should persist in rejecting them.

Upon the other point, the stipulation proposed instead of the twelfth article of the old treaty, expressly holds out the question concerning neutral bottoms and goods as a contested point, and it is preceded by a labored argument to prove that, by the present law of nations, the principle of the old treaty is prescribed. But, in conformity to your instructions, I did not think myself authorized even to admit, by any implication, that the principle prescribed by the law of nations can be a subject of controversy, and hence, in objecting to

the words which present it as such, it was necessary to answer the arguments in maintenance of the position.

I have, in my reply, offered two alternatives for avoiding, in the new treaty, any mention of the point; and, if a positive inference could be drawn from what Count Haugwitz assured me was his opinion, I might conclude that one or the other of them might be accepted. I shall not be surprised, however, if the difficulty in this case should still recur; for I judge, from what has hitherto passed, that they are apprehensive an alteration of the express agreement in the treaty of 1785 might be construed into an abandonment of the principle, unless the substituted article should contain some expression which should evidently reserve it; and it is perfectly clear that they are extremely averse to abandon the principle. Their own convention with Great Britain, in 1793, is, to be sure, an argument against them, so strong in itself, that I have not thought it necessary to dwell much upon it, and therefore barely alluded to it in my second note. You will see how they explain it in the enclosed answer, and consider it as compatible with the system which, at other times, Prussia has maintained, and now again wishes to support.

In the discussion concerning the papers to be specified for the purpose of ascertaining the neutrality of merchant vessels and their cargoes in time of war, as I had not the benefit of your instructions, I was obliged to proceed upon such principles as occurred to my mind as best calculated to answer the object proposed by those papers. The sea-letter, the muster-roll, and the invoices, appeared indispensable in a treaty which does not adopt the principle of allowing the bottom to protect both persons and goods; but the other paper, for which they so strenuously contend, seemed to me unnecessary, as tending to prove nothing but what the sea-letter alone suffices to show, and as binding the parties to certain forms of documents which their internal commercial regulations might require to be altered. In my last conversation with Count Haugwitz, he concurred with me fully in the opinion; and I hope, therefore, that the additional paper will not be insisted upon. I have felt more embarrassment upon this subject, because I have not with me the latest laws of the United States prescribing the papers with which vessels of the United States must be provided.

The case of the Wilmington packet, upon which so many fruitless applications were made to the Government in Holland for indemnity, suggested to me the idea of allowing time, after the breaking out of war, for the neutral nation to furnish its vessels with the proper papers.

Since receiving your letter of the 25th of September, I have felt much less anxious about the speedy conclusion of the treaty than I was before. In one of my last conversations with Count Haugwitz, I told him that, if the Prussian Government had the smallest scruple or hesitation about the renewal of the treaty, on account of the situation of our affairs with France, I knew enough of the sentiments of my Government to assure him that they

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were by no means desirous that Prussia should take any step at which she should feel the smallest reluctance, and, if she thought it most expedient, would postpone the conclusion of the treaty until a time which should be perfectly suitable to both parties. He said he was very glad I had given him an opportunity to assure me, in the most positive and unequivocal manner, that the situation of our affairs with France had never entered into the consideration of His Majesty's Government, in regard to the renewal of the treaty, and that it certainly never would. That the friendly sentiments of the King towards the United States rested upon grounds which could not be affected by the changes in the political views of other European Powers, and that the transactions between the American and French Governments were of a nature which could not induce any impartial and honest third party to favor the latter. He then expressed [himself] with great bitterness and severity concerning the conduct of the French Government in general, and especially upon its present treatment of the King of Sardinia.

Since beginning this letter, I have received your favor of the 7th of November, No. 11, with duplicates of the Nos. 6, 7, 8, 9, and 10; a copy of your letter to Mr. Gerry, of the 25th of June; of your despatch to Mr. King, of the 17th of September, 1796; and extracts of his letters of the 13th of April, and the 3d of June, 1797. I have the honor to be, very respectfully, sir, your very humble and obedient servant,

JOHN Q. ADAMS.

The SECRETARY OF STATE.

The Prussian Minister to Mr. Adams.

BERLIN, 29th November, 1798.

We have received the last note which Mr. Adams, Minister Plenipotentiary of the United States of America, has done us the honor to transmit, dated the 29th of October; and we hasten to reply to it, in order to show how greatly it is desired, on our part, to expedite the negotiation with which we are now entrusted, by every means in our power.

Whatever may be the reciprocal dispositions of Mr. Adams, in this respect, it appears, nevertheless, that he finds some difficulty in acknowledging the force of the reasons which have prevented us from agreeing to the proposed alterations relating to the twelfth article of the Treaty of 1785. He objects that, by the ordinary law of nations, the property of neutrals, on board the vessels of enemies in times of war, is free. This rule, it is true, has heretofore been followed by most of the Powers of Europe, and it is to be found in many treaties which have been concluded during the fifteenth and fourteenth centuries; but it is also known that it has been since abandoned: the inconveniences to which it was liable having determined the maritime and commercial nations to depart from it. In the year 1646, the two treaties concluded by the States General of the United Provinces with France and England, have stipulated, "that

the vessels of friends and neutrals shall render their cargoes free:" and this principle, thus laid down, has been re-affirmed and preserved in almost all the treaties concluded since that epoch among the commercial nations of Europe. The convention formed between Russia and England, in the years 1798, which Mr. Adams cites in his note, is directed against France exclusively, and is, therefore, only an exception to the rule; and if it be true that, in the beginning of the present war, the combined Powers have thought proper to depart from the received principle, this momentary deviation can only be attributed to particular circumstances; and it is not, on that account, the less true, that Prussia had but one permanent system in relation to commerce and neutral navigation. It is founded on the maxim declared in the twelfth article of her ancient treaty with the United States of America; and this rule is better adapted than any other to the convenience of commercial nations: it has restricted the formalities of the required proofs concerning the ownership of the different cargoes of the same vessel; it protects navigation against vexatious searches; and, in a word, arrests the abuses and shackles of every kind to which it is exposed.

We are, moreover, convinced that, in the existing war, in which the commerce and navigation of neutrals are subjected to so many interruptions, purely arbitrary, the principle proposed by Mr. Adams would not be more respected than the former; many examples having occurred which show that even neutral vessels laden only with neutral merchandise are liable to be seized and confiscated under all sorts of pretexts, however frivolous.

But it would be useless to extend this discussion; Mr. Adams being convinced, with us, that, instead of hazarding a new stipulation, both eventual and uncertain, it would be better to leave it in suspense until the epoch of a general peace; and then to consider with earnestness the means of insuring the freedom of neutral commerce, and placing it, in future wars, upon a solid basis. Nothing, therefore, remains to be done at present except to suppress, provisionally, the twelfth article of the ancient treaty, and to substitute the following stipulation, to which we suppose that no objection can be made:

"Experience having shown that the principle adopted in the twelfth article of the Treaty of 1785, according to which free ships make the merchandise free, has not been sufficiently respected during the two last wars, and especially in that which is now carried on; and that contradictory dispositions of the principal belligerent Powers not permitting, at the present time, a satisfactory adjustment of the litigated question; the two high contracting parties reserve to themselves the right, after the restoration of a general peace, to resume this subject, either separately between themselves, or conjointly with other Powers whom it also concerns, in order to concert with the great maritime Powers of Europe such arrangements and such permanent principles as may serve to confirm, in future wars, the freedom and safety of neutral navigation and commerce."

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Mr. Adams having, in his last note, replied to the reasons which prevent the Prussian Government from including ship timber in the class of contraband articles, we propose to him the alternative either to retain the thirteenth article of the ancient treaty as it is, or to insert in it, specifically, the list of contraband articles extracted from the eleventh article of the Treaty of Commerce and Navigation concluded between Russia and Great Britain, the 20th of June, 1766. If the precaution shall appear necessary, it will suffice to add to the end of the thirteenth article of the new treaty the following passage:

"Shall be considered objects of contraband, cannon, mortars, fire-arms, pistols, bombs, grenades, bullets, balls, fusils, flints, matches, powder, saltpetre, sulphur, cuirasses, pikes, swords, sword-belts, cartouch-boxes, saddles and bridles, beyond the quantity which may be necessary for the use of the vessel, and beyond that which each man serving on board the vessel, or each passenger, ought to possess; and, in general, all that can be comprised under the denomination of arms, provisions, and munitions of war, of whatever kind they may be."

We only desire to simplify the formalities and the proofs which are required of the owners of vessels, in order to verify the neutrality of the vessel and of the cargo; in this respect, however, we are obliged to consult the rules established by our laws, and the usages received in our maritime tribunals. The document of construction (called *beil-brief*;) being precisely the one which proves the neutral quality of the ship, it appears impossible to erase it from the list of papers with which the Prussian navigators should be provided. But as this document is not used in the same form in the American Republic, nothing, in our opinion, would prevent the substitution, by American navigators, of the certificate of registry, which is the equivalent for it, and set forth this difference in the new treaty.

In return, we willingly consent to dispense with the muster-roll, which, it appears, the Constitution of the United States does not allow; but it will be preserved, notwithstanding, among the number of documents prescribed by our laws to the Prussian navigators, and this difference will be also declared in the new treaty.

We entirely concur with Mr. Adams in the other modifications proposed by him, respecting the articles 16, 19, 20, 23, and 25; and as we presume that he will readily accede to the equitable observations submitted to his consideration in the present note, we shall expect his assent, in order to reduce the new treaty into proper form, and close, as soon as possible, a negotiation, the prompt and happy termination of which is alike desired by us and him.

FINCKENSTEIN,
ALVENSLEBEN,
HAUGWITZ.

Mr. Adams to the Prussian Ministers.

BERLIN, 24th December, 1798.

The undersigned, Minister Plenipotentiary of the United States of America, has seen, with plea-

sure, in the reply of their Excellencies, in their last note, that almost all the points relating to the renewal of the Treaty of Commerce between His Majesty and the United States, which required discussion, are adjusted; and that, with regard to those upon which some further explanation is still necessary, no difficulty will arise sufficiently serious to retard the conclusion of the negotiation to the entire satisfaction of the two Governments.

He would not hesitate to subscribe to the stipulation proposed by their Excellencies, as a substitute for the 12th article of the ancient treaty, if he could omit the following words: "And the opposing dispositions of the belligerent Powers not permitting the satisfactory adjustment, at the present moment, of the contested question." It is possible that the belligerent Powers may find in these expressions a kind of sanction to their dispositions, which would not accord with the intentions of the high contracting parties; and besides, the undersigned would desire to omit entirely an allusion to a point, of which it is the desire of the two Governments to defer the consideration, rather than to announce it formally as a contested question.

In order to justify the opinion of his Government, on the subject of the principle in question, he believes it his duty to observe that it is not founded on the treaties of the fourteenth and fifteenth centuries. He considers the principle of the law of nations as absolutely distinct from the engagements stipulated by particular treaties. These cannot establish a fixed principle on this point; because such stipulations bind only the parties by whom they are made, and the persons on whom they operate; and because, too, in the seventeenth and eighteenth centuries, as well as in the fourteenth and fifteenth, different treaties have adopted different rules for each particular case, according to convenience and agreement of the contracting parties.

Rejecting, therefore, all positive engagements stipulated in treaties, it may be well doubted whether, antecedently to the American war, a single example can be found of a maritime belligerent Power who has adopted the principle that enemy's property is protected by a neutral flag. For, without speaking of England, whose system in this respect is known, France by the ordinance of 1744, renewing the provisions of that of 1781, declares enemies' property on board neutral vessels subject to seizure and confiscation. It excepts from this rule the ships of Denmark and the United Provinces, conformably to the treaties then existing between these Powers and France. This ordinance has continued to have its effect, in the tribunals of France, to the epoch of the ordinance of the 26th July, 1778. By the first article of this last, the freedom of enemies' property on board of neutral ships is yielded to neutrals as a favor, but not as a principle of the laws of nations, since the power is reserved to withdraw it at the expiration of six months, if a reciprocal stipulation should not be conceded by the enemy. Spain by the ordinances of the 1st of July, 1779, and 13th of March, 1780, ordered, in like manner, the seizure

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and confiscation of enemies' property found in neutral vessels.

It will only be added, that a celebrated publicist, a Prussian subject, who, in the latter part of the present century, wrote a highly esteemed work upon the laws of nations, *Vattel*, says expressly, (book 3, section 115,) that "when effects belonging to an enemy are found on board a neutral vessel, they may be seized by the laws of war." He cited no example where the opposite principle has been practised or insisted on.

When the system of armed neutrality, however, was announced, the United States, although a belligerent Power, hastened to adopt its principles; and during the period succeeding this epoch in which they were engaged in war, they scrupulously conformed to them. But, on the first occasion, when, as a neutral Power, they might have enjoyed the advantages attached to this system, they saw themselves deprived of these advantages, not only by the Powers who had never acceded to these principles, but also by even the founders of the system. The intentions of the combined Powers, it is true, were exclusively directed against France, but the operation of their measures did not extend the less to all neutrals, and especially to the United States. However peculiar may have been the circumstances of the war, the rights of neutrality could not be thereby affected. The United States have regretted the abandonment of principles favorable to the interests of neutrality, but they have perceived their inability to prevent it; and they are persuaded that equity cannot require of them to be the victims, at the same time, both of the rule and of the exception; to be bound, as a belligerent party, by laws, of the advantages of which, as a neutral Power, they are wholly deprived.

It is the wish, however, of the Government of the United States, to prove that it has no desire to depart from the principles adopted by the Treaty of 1785, except upon occasions when an adherence to those principles would be an act of injustice to the nation whose interests are confided to it. In consequence of the instruction he has received, the undersigned has the honor to propose, in adopting, (with the omission of the words already cited,) the stipulation contained in the note of their Excellencies, as a substitute for the twelfth article, the insertion of a clause to the following effect:

"And if, during this interval, one of the high contracting parties shall be engaged in a war to which the other is neutral, the belligerent Power will respect all the property of enemies laden on board the vessels of the neutral party, provided that the belligerent Power shall acknowledge the same principle with regard to every neutral vessel, and the decision of his maritime tribunals shall conform to it."

If this proposition has not the good fortune to be accepted by their Excellencies, the undersigned takes the liberty to make another; it is to adopt nearly the formula of the Treaty of 1766, between Russia and Great Britain, and to say that, "as to the search of merchant vessels, *in time of war*, the vessels of war and the private armed vessels of

the belligerent Power will conduct themselves as favorably as the object of the then existing war will permit; observing, as much as possible, the principles and rules of the laws of nations, as generally recognised."

He cites this Treaty between Russia and Great Britain, because their Excellencies propose to take it as authority in defining the articles of contraband, and because this article is renewed by the Treaty of Commerce concluded between the same two Powers the 10th (21st) February, 1797.

The undersigned had flattered himself, after their Excellencies' reply to his first note, that ship timber would be the only article of those which he had specified which they would have any difficulty in admitting in the list of contraband. In adopting the proposition to preserve the principles, with regard to contraband, contained in the 13th article of the ancient treaty, he still hopes that they will consent to add the articles cited in his first note, with the exception of ship timber, to the list contained in the Treaty of 1766, between Russia and Great Britain. He had supposed that the stipulation that even contraband articles should not be subject to confiscation would have the tendency to facilitate this arrangement.

It would also, perhaps, be proper to omit the term *provisions*, which appears synonymous with that of munitions of war, and which is susceptible of being interpreted in a broader sense than that intended by the high contracting parties.

As to what regards the papers to be produced, in order to prove the neutrality of the vessels and their cargoes, the undersigned has the honor to observe, that, in designating certain documents, which the armed vessels of one of the high contracting parties should have the right to demand in time of war of the merchant vessels of the other, the respective Governments do not intend to resist the reciprocal power of ordering, for the municipal regulation of their commerce, whatever document or paper they may think proper to prescribe to their citizens or subjects; that, consequently, the Government of his Majesty may, at all times, require his commercial subjects to have the *beil-brief* on board their vessels; and, in like manner, the Government of the United States may order their seamen to be provided with a certificate of registry, although neither of these papers may be prescribed by the treaty. But, on the part of both, the nature of this document appears to be rather to prove the ownership of the vessel, on a question concerning the individual and his Government than the neutrality of the vessels, before the officers or tribunals of a foreign Power. It is the very document, on the credit of which the Government relies in granting its protection to the vessels which may be provided with it; but, as it regards foreigners it becomes a superfluous document, when the sea-letter, supported by the signature of public officers, gives still greater authenticity to all that it can attest.

When the armed vessel of a belligerent Power and the merchant vessel of a neutral Power meet together at sea, three objects are presented, to which the first will naturally look in order to as-

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certain the neutrality of the second—the vessel, the cargo, and the crew. Each of these objects has its own document. The sea-letter is that which particularly concerns the vessel; and, when it is found perfectly regular, it seems unnecessary to confer the right to exact others, the only effect of which would be to confirm what that alone ought sufficiently to prove.

The undersigned has taken the liberty to make these observations, because he has thought that the interests of the two high contracting parties would be equally consulted by not stipulating in a treaty for documents which seem more properly to appertain to the interior administration, and which each Government would probably desire to continue or to change, as its own policy might dictate, without embarrassment or control. A clause to that effect may even be added to this article, where a question may arise respecting the papers. However, if their Excellencies shall continue to think it necessary, the undersigned will not hesitate to specify the *beil-brief* for the Prussian vessels, and the certificate of registry for those of the United States, among the papers designated in the treaty.

He will also admit the muster-roll for the vessels of the two nations. This paper is not excluded by the Constitution of the United States. It is true, that it is not required by any of their former treaties; but the usage of having it is recently established, in consequence of the inconveniences which have been felt from not possessing it; and the Government will find no difficulty in expressly naming it in the new treaty, so as to prevent the possibility of any misunderstanding on this subject.

As all these papers ought to be stipulated only for the case when one of the high contracting parties shall be at war, and as their sole object is to prove the neutrality of the vessels and their cargoes, it would seem proper to give a delay (of three months, for example,) after the declaration of war, or notification of hostilities, before the expiration of which, these documents shall not be considered absolutely necessary. The justice of a similar arrangement will be evident, when it is considered that some time must be requisite to furnish the vessels of the neutral party with papers, the use of which will naturally cease in time of peace.

The undersigned has also the honor to apprise their Excellencies that, subsequently to the last note he has had the honor to transmit to them, he has received official information of a law of the United States, approved by the President of the United States, the 7th of last July, by which all the Treaties between the United States and France are declared to be no longer obligatory upon the Government and citizens of the United States. The reasons upon which this law is founded are declared in the preamble: "Because the engagements contained in these treaties have been manifestly violated on the part of the Government of France; because the just demands of the United States, for the reparation of these injuries, have been rejected, and their efforts to negotiate an amicable arrangement, upon all the differences existing between the two nations, rejected with indig-

nity; and because, under the authority of the Government of France, a system of predatory violence has been continued, opposed alike to the aforesaid treaties, and to the rights of a free and independent nation." In consequence of this law, it will not be necessary to stipulate, on the part of the United States, in the new treaty, the exceptions in favor of France, proposed in the first note of the undersigned; nor to renew that which is contained in the 19th article of the Treaty of 1785.

The undersigned concludes, by observing, that he only awaits the time which will be convenient to their Excellencies, either to receive the formal project of a treaty which they shall have prepared, or to present one himself, as shall be most acceptable to them.

JOHN Q. ADAMS.

The MINISTERS OF STATE, &c.

No. 144.

BERLIN, 4th April, 1799.

SIR: Since I had the honor of writing to you last, I have received from the department of Foreign Affairs here a note, with a copy of the full powers given by the King to the three Ministers at the head of that department, to renew the Treaty of Commerce between the two Powers, and they sent me, at the same time, the project of a treaty, in the French language. I have replied, by a note containing my observations upon such parts of the projected plan as appeared to me to require them, and have returned the plan, with such alterations noted in the margin as I thought would be necessary or proper, and with a copy of the same plan, as verified by the marginal alterations, in our own language, for the consideration of the Cabinet. I enclose herewith copies of these papers, excepting of the projects for a treaty, which I shall reserve until we shall have agreed upon the tenor of the instrument; and, in the notes themselves, you will see in what respect they differ from the former treaty.

It is more than a fortnight since I delivered to Count Finkenstein my reply, with the two projects; and Count Haugwitz had before had them a fortnight in his possession. He told me that there would be few objections, perhaps none at all, to the alterations I proposed; and I do not apprehend that any further essential difficulty will occur to impede an agreement and the conclusion of the treaty.

I did not think it expedient to insist any further upon comprising naval stores among the articles of contraband, because they had given up the point of making free ships free goods; and, as it was evidently with reluctance on their part, I considered myself fully authorized by your instructions to show a disposition to comply with their wishes in the other particular. These articles have, indeed never been allowed by this country to be contraband, and even Great Britain has generally considered them as free, so far as Prussia is concerned. In the general Prussian code of laws, they are expressly named as *not* contraband, and they could not have been admitted under the opposite denom-

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ination, without repealing a law which has reference to all other nations as well as to the United States.

The alteration in the twenty-first article I agreed, without hesitation, to adopt, as it appeared much more equitable than the former arrangement, and as the salvage allowed to ships of war is the same which the British Courts of Admiralty have allowed in cases of recapture of American vessels from French cruisers, though without any stipulation upon the subject by treaty. And I have not understood that any complaint has been made against this disposition.

I have the honor to be, with great respect, sir, your very humble and obedient servant,

JOHN Q. ADAMS.

The SECRETARY OF STATE.

The Prussian Ministers to Mr. Adams.

BERLIN, 19th February, 1799.

The note, dated the 24th December last, which Mr. Adams, Minister Plenipotentiary of the United States, has done us the honor to transmit, brings us to the close of the interesting negotiation with which we have been occupied with him during his residence at Berlin; and we now find ourselves prepared to communicate the subjoined *projet* of a new treaty, upon which it will be necessary to make a few observations.

We had proposed to him, in our note of the 29th November, to omit entirely the discussion which has arisen on the subject of the twelfth article, relating to neutral navigation; and we are now governed by the same desire in adopting, without variation, the stipulation which ought to be substituted for the one contained in the ancient treaty. Agreeably to the desire expressed by Mr. Adams, we have expunged the passage which refers to "the contradictory dispositions of the present belligerent Powers;" and following the analogy of the treaty concluded in 1766 between Russia and Great Britain, we have added an additional clause, which relates to the search of merchant vessels in time of war; by means of which this article will be found perfectly regular.

It is different with the thirteenth article, which concerns objects of contraband. We have declared to Mr. Adams, in our first note of the 25th of September, 1798, "that if it should be necessary to specify them in detail in the new treaty, we shall be obliged to restrict them to those which have been stipulated and adopted as such in the maritime convention concluded between Prussia and Russia, the 8th of May, 1781, after the example of the Treaty of Commerce and Navigation concluded between Russia and Great Britain, the 20th of June 1766."

According to this principle, we have declined to place ship timber on the list of articles of contraband; and we have also tacitly omitted the other exceptions which Mr. Adams has proposed to us. These are, also, the productions of the soil, or of the industry of Prussia, which have been considered in every war as lawful merchandise, and which we have no power to prohibit.

Mr. Adams will, therefore, be willing, after our example, to adhere to the ancient list, which has, to the present time, served as a rule for all the maritime Powers. We have in this article omitted the word *provisions*, which seemed to him liable to objections.

To manifest to this Minister how much we are disposed to enter into his views, as well as to abridge superfluous formalities, we consent to suppress the document showing the building of the vessel, and we have, therefore, passed it over in silence to the 14th article; so that, in time of war, neutral vessels will have occasion for no other papers, except the sea-letter, muster roll, and charter party. Agreeably to the proposition of Mr. Adams, a delay of three months, after a declaration of war, is granted to the respective navigators to provide themselves with the required documents.

Finally, we have expunged from the nineteenth and twentieth articles the exceptions in favor of France, which have been revoked by the law of the United States of the 7th of last July.

After having thus yielded to the propositions of Mr. Adams, and to the views of his Government all that depended upon us, it remains for us to invite his attention to an article of the ancient treaty, which has not yet been noticed in the course of the negotiation, and which seems, nevertheless, to require revision. We refer to the twenty-first article, which has established, in 1785, exorbitant insurances, at the expense of the merchant vessels, which, in time of war, may be retaken from the enemy by vessels of war, or private armed vessels of either nation. The promised remuneration to private armed vessels has been fixed at one-third of the value of the vessel and cargo, when the vessel shall not have been in the power of the enemy more than twenty-four hours, and the owner would be condemned to lose the whole should the vessel be retaken after twenty-four hours.

As to the vessels of war, a thirtieth of the value is adjudged them, in the first case, and a tenth in the second. At the time the ancient treaty was concluded, these were the customary rates; but a new code of laws, subsequently introduced into the Prussian monarchy, has adopted on this subject the following regulation—*Title 9, § 208-10*:

"That if a Prussian privateer, or vessel of war, should retake a ship or merchandise belonging to the subjects of the King, or to those of a friendly neutral Power, the captor ought not to retain his booty, except where the vessel shall have been carried, before the recapture, into a neutral or enemy's port. But if the recapture has taken place before the vessel, or cargo, shall have been carried into an enemy's or neutral port, they shall be restored to the first owner upon a recompence being made; this recompence, in the case of private armed vessels, is fixed at one-third of the value; and, where vessels of war are concerned, it shall be determined, in each particular case, by the maritime tribunals."

This regulation, which has been sanctioned by a royal ordinance, published and dated the 24th

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of September, 1798, has, in many respects, moderated the stipulations of the Treaty of 1785, and especially has abolished the short and unjust delay of twenty-four hours, which formerly, to the injury of the legitimate owner, sufficed to determine the fate of a vessel captured by the enemy.

A short time, however, after this law had been introduced into the dominions of the King, the Court of Madrid invited His Majesty, last November, "to observe, reciprocally, in future, between the two Powers, the usages established by the maritime ordinances of Spain, declaring that every national vessel, friend or neutral, captured from the enemy, shall be restored to the owner, for a remuneration of one-eighth of the value, in the case of a vessel of war, and one-sixth to privateers only."

The King hastened to adopt the principle of humanity, thus proposed for his imitation by His Catholic Majesty; and the two Courts have accordingly agreed to conform to it.

It is to be presumed that the United States of America, who, in their first treaty with Prussia, have so clearly manifested their generous intention to withdraw, as much as possible, navigation and commerce from the effects of war, will not, on this occasion, evince a disposition less liberal than others; and we therefore believe that we can appeal with confidence to their Minister. He will himself perceive that we could not be at liberty to agree to the stipulations which would impair the sanctions of an existing law, and that, therefore, in any event, we shall be obliged to conform the twenty-first article to the first modifications herein announced. We would submit it to his option, whether in the treaty to be concluded he will adopt these modifications, or prefer, as a substitute, the still more moderate regulations derived from the maritime ordinances of Spain. In this respect, we will do whatever he may think proper to suggest; and we only expect his reply, to supply the article which remains in blank.

As soon as this shall be done, supposing that we are now agreed on all the other stipulations of our *projet*, we will cause two draughts of the treaty to be prepared, and will not fail to inform him of the day when we may assemble, for the purpose of proceeding to the signature and to the exchange of the full powers. In anticipation of which, we have the honor to communicate herewith a copy of that with which we are provided.

FINCKENSTEIN,
ALVENSLEBEN.
HAUGWITZ.

To Mr. ADAMS, Minister, &c. of the U. S.

Full powers to the Ministers of State and of the Cabinet, Count of Finckenstein, Baron of Alvensleben, and Count of Haugwitz, having for its object the renewal of the Treaty of Commerce and Friendship with the United States of America.

We, FREDERICK WILLIAM the Third, by the grace of God, King of Prussia, make known to whomsoever it may concern:

The United States of America having proposed

to us the renewal of the Treaty of Commerce and Friendship which our august predecessor, King Frederick the Second of glorious memory, concluded with them the 10th September, 1785; and it being equally our intention to establish on a solid basis the ties of commerce and good intelligence which, to the present time, have so happily subsisted between Prussia and the American Republic: we have nominated, constituted, and deputed, and do nominate, constitute, and depute our Ministers Plenipotentiary—

Charles William, Count of Finckenstein, our Minister of State, of War, and of the Cabinet; Knight of the Orders of the Black and Red Eagle, and Commander of that of St. John of Jerusalem;

Philip Charles, Baron of Alvensleben, our Minister of State, of War, and of the Cabinet; Knight of the Orders of the Black and Red Eagle, and of that of St. John of Jerusalem;

And Christian Henri-Curce, Count of Haugwitz, our Minister of State, of War, and of the Cabinet, Knight of the Orders of the Black and Red Eagle:

To negotiate with John Quincy Adams, Minister Plenipotentiary of the United States of America near our Court, the Treaty of Commerce and Friendship which ought to be substituted for the former; giving them, by these presents, jointly and separately, full and absolute power to confer and deliberate on the objects relating thereto, to conclude the stipulations which a change of circumstances has rendered necessary, and thereafter to sign a new treaty; and such other conventions, declarations, or acts, as they may judge suitable, in order to consummate their negotiation: promising, upon the faith and word of a King, to consider as right, to hold firm and stable, forever, and to accomplish and execute punctually all that our said Ministers shall have stipulated, concluded, and signed, in virtue of the present full powers, without either contravening it, or permitting its contravention by others, from any cause, or on any pretext whatsoever; as also to cause our letters of ratification, in proper form, to be issued and delivered, in order to be exchanged within the time which may be agreed upon.

In faith of which, we have signed these presents, and have caused our royal seal to be affixed thereto.

Given at Berlin the 10th of December, in the year of our Lord 1798, and of our reign the second.

FREDERICK WILLIAM. [L. S.]

Mr. Adams to the Ministers of Prussia.

BERLIN, March 16, 1799.

The Minister Plenipotentiary of the United States of America has received the note of their Excellencies, dated the 19th February, accompanied by a copy of their full power, and the project which they have been pleased to transmit. He hastens to make some observations in reply, for which he solicits the indulgence they have been kind enough to extend to his previous representations on the same subject.

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The ancient treaty of 1785 was concluded and signed, as an original, in two languages, the French and English; and the undersigned hopes that the new treaty will be executed in the same manner. Relying on this expectation, he has now the honor to transmit the project in the English language; in which he has repeated the terms of the ancient treaty, in every article where the project of their Excellencies has preserved the French terms, with the exception of two inconsiderable changes, rendered necessary by the alterations in the Constitution of the United States: the one in the preamble, the other in the fourth article.

As to the new articles, a translation has generally been made by the undersigned, in the project which their Excellencies have communicated. He would, in his opinion, very ill return the courtesy which he has received in the course of this negotiation, and not less imperfectly exhibit the deference which his Government has desired him to manifest towards His Prussian Majesty, if he insisted further on the article of contraband. He has, therefore, in this respect, adopted entirely the provisions contained in the project of their Excellencies.

Upon the same principle, he has not hesitated to adopt, in relation to maritime recaptures, the alternative of those proposed by their Excellencies, which he finds has been sanctioned by the approbation and preference of His Majesty the King of Prussia; being persuaded that his Government will do itself the honor of participating in those sentiments of humanity which have dictated that preference.

The term "high," applied to the contracting parties, is not found in the articles copied from the ancient treaty. It is proposed to erase it from the new articles, not only for the sake of uniformity, but because the United States, having declined the adoption of any title of distinction, have never applied this epithet in any of their treaties.

In the thirteenth article, the terms "heretofore called" do not appear to apply appropriately to the articles of contraband; since the article itself contains a list of what is contraband. On that account it is proposed to expunge them.

In the fourteenth article, it is wished to add, that the charter-party, or bill of lading, as well as the muster-roll, shall be accompanied by the certificates of the public officers who are accustomed to issue them, in order to give to these papers a degree of authenticity, without which no documents would be entitled to credit, even in the private transactions of individuals. The undersigned believes that these documents are in use within the Prussian dominions, and that their Excellencies have intended to comprise them within the words "bills of lading," and "muster-roll." But as these certificates are not an essential part of these papers, and as these papers themselves are only necessary in a time of maritime war, it would perhaps be better to name them expressly. Another consideration appears to render these certificates necessary; the bills of lading, on board of American vessels, very frequently designate only the bales and boxes, with their marks and num-

bers, without specifying their contents, as is required of Prussian navigators by the laws of this country.

The project of the undersigned has slightly varied the clause which gives to the navigators a delay of three months, in order to procure the documents necessary in time of war. It only exacts these documents from vessels which shall have sailed from the ports of the neutral Power more than three months after the neutral Government has knowledge of the war; because, on the one hand, the vessel may be at sea more than three months after a declaration of war, without possessing these documents, if it shall have sailed from a neutral port before, or a little after this declaration; and, on the other, the intention of the contracting parties is not to exempt neutral vessels from the production of every document that can prove their neutrality; (an exemption which the enemies of the belligerent party may abuse, by demanding it without right,) but to allow the vessels necessarily unprovided with these specified documents every other reasonable and equivalent proof.

In the fifteenth article it may be proper to omit the stipulation that ships of war shall not approach neutral vessels within cannon shot. Although this engagement is frequently to be found among modern treaties, it has been seldom or never observed. It would be always difficult, and sometimes impossible, to observe. In tempestuous weather a boat could be rarely sent the distance which would be necessary, if the vessel should remain out of cannon's reach. In moderate weather, the two vessels must stop while a boat is passing between them, and this would occasion a useless waste of time, both to the neutral and belligerent vessels; besides, in binding one's self by this stipulation towards a neutral, an obligation is also created in favor of an enemy, since nothing is more usual with belligerent vessels than attempts to escape an enemy under the mask of a neutral flag. But, if this clause were observed, an armed ship would be arrested in the pursuit of every vessel that could raise a neutral flag; and, if a pretended neutral were at liberty to remain out of the reach of cannon while a boat could be sent for the examination of papers, facilities would be given to fraud.

In the same article, the words "passports and documents" seem more proper than "sea-letters and passports," which have been borrowed from the ancient treaty, which does not require the documents designated in the new one.

In the sixteenth article, to avoid the possible construction that the ships of one of the parties in the ports of the other might be subjected to an embargo, for the purpose of being employed on some special occasion, it is proposed to substitute for the words "public or private" the word "whatsoever."

To the nineteenth article a clause has been added, to make it conform to the subsisting treaties between the United States and Great Britain, to which the undersigned referred in his note to their Excellencies, dated the 11th July of the last year.

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In submitting these remarks to the consideration of their Excellencies, he has only to add, that, whenever they shall have decided whether it will be their pleasure to sign the treaty in the two languages, he will cause two copies of the original to be prepared in English, that he may be ready, at the time it may suit their convenience, to proceed to the exchange of the full powers and to the signature.

JOHN Q. ADAMS.

To the MINISTERS OF STATE, &c.

No. 147.

Extract of a letter from John Quincy Adams, Minister, &c. at Berlin, to the Secretary of State, dated

"MAY 10, 1799.

"I received a few days since a note from the Cabinet Ministers, with a new project for a treaty, in which they have complied with all the alterations I had proposed in my last note, excepting in one particular, and for that they offer an expedient, which, I think, will answer perfectly well the purpose. I have therefore replied, and sent them a draught in our language entirely conformable to their plan; so that, at present, we are fully agreed upon the tenor of the treaty, the several copies of which only remain to be drawn up and signed, which I hope will be done in the course of a month."

The Prussian Ministers to Mr. Adams.

BERLIN, *April 30, 1799.*

In the reply we have now to make to the note of Mr. Adams, Minister Plenipotentiary of the United States, dated the 16th of March, but few observations will be necessary.

The greater part of the alterations which he has recently suggested present no essential difficulty. We have, therefore, unhesitatingly adopted them, in conformity with his desire. The only exception is in the fourteenth article, in which he proposes to stipulate "that, in times of war, the charter-parties, bills of lading, and lists of the ship's company, shall be issued by the magistrates or public officers of the place from whence the ship shall have sailed." We are informed, from the statements with which we have been furnished on this subject, that, in some of our provinces, the practice has prevailed for a long time, to issue the above named sea-papers judicially; but that, in others, our merchants and owners of vessels are content with making their contracts before a notary or a commissary of justice, and sometimes even under a private seal; and they are, in this respect, the more enabled to follow the established usages and consult their own convenience, inasmuch as there is no law enacted by the Sovereign, or recognised by the maritime tribunals, which has required of them more rigorous formalities. It is not, therefore, within our competency to impose on the subjects of the King a new restraint, which would conflict with their rights and privileges; and the nearest approximation which we can make to the views of Mr. Adams is, to add to

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the fourteenth article "that the documents shall always be issued in the form established at the place from whence the ship shall have sailed." He will be the first to acknowledge that it is not in our power to go beyond this; and, in justification of our decision, we rely upon that equity of which he has given, in the course of the negotiation, so many satisfactory proofs.

All the residue of the treaty is in conformity with his desires; and we can anticipate no objection to the second project we herewith communicate. We pray him, however, to collate once more the English translation, herewith also transmitted, and to change the latter, in the passage redrawn in the 14th article, according to the alteration in the French text.

Perhaps, also, it will be necessary to retrench the last period of the same article, as well as the 7th, 19th, and 21st articles, to assimilate them still more to the expressions and phraseology which we have adopted in the original.

After Mr. Adams shall have had the goodness to return these two copies, we will not delay the conclusion of the treaty in duplicates, each in the two languages; and nothing will afterwards prevent our proceeding with him to the signature.

FINCKENSTEIN,
ALVENSLEBEN,
HAUGWITZ.

Mr. ADAMS, Minister, &c., of the U. S.

Mr. Adams to the Ministers of Prussia.

BERLIN, *May 4, 1799.*

The Minister Plenipotentiary of the United States of America has the honor to return to their Excellencies the new project of the treaty which they have been pleased to transmit to him, with the copy in English, which has been made to conform to it throughout.

In adopting, without hesitation, all the changes which their Excellencies have thought necessary, as well in relation to the papers stipulated by the 14th article, as to the phraseology of the 17th, 19th, and 21st articles, he will confine himself to the single remark that, in his project, in order to designate the modification at the close of the 19th article, he has used the precise expressions of the treaty between the United States and Great Britain; and as it is the extent of the engagement formed by a previous treaty, which ought to serve as the measure of its actual modification, he understands that the change of phraseology, in this article, will occasion no difference in its meaning.

He will be ready to sign the treaty as soon as the copies shall be prepared, and at whatever moment their Excellencies may signify their wishes.

JOHN Q. ADAMS.

No. 150.

BERLIN, *July 13, 1799.*

SIR: I have the honor to send with this the two originals, in the French language and our own, of the Treaty of Amity and Commerce between His Majesty the King of Prussia, and the

Relations with Tunis.

United States, signed on the 11th instant. I am, with great respect, sir, your very humble and obedient servant,

JOHN Q. ADAMS.

The SECRETARY OF STATE.

TUNIS.

[Communicated to the Senate, December 13, 1799.]

Gentlemen of the Senate:

In conformity with your recommendation, expressed in your resolution of March 6, 1798, I have entered into a friendly negotiation with the Bey and Government of Tunis on the subject of the fourteenth article of the Treaty of Peace and Friendship between the United States and that Power. The result of that negotiation I now lay before the Senate, for their consideration.

JOHN ADAMS.

UNITED STATES, Dec. 13, 1799.

Extract from the instructions of Richard O'Brien, William Eaton, and James Leander Cathcart, appointed to negotiate alterations of the Treaty with Tunis.

By the powers herewith delivered to you, from the President of the United States of America, you are authorized to confer, negotiate, and conclude, with the Bey and Regency of Tunis, on the alterations to be made in the treaty between the United States and that Power, as arranged in the month of August, 1797, by the agency of Joseph Etienne Famin, who was employed by Joel Barlow, Esq., Agent and Consul General of the United States at Algiers.

The important object of discussion arises out of the fourteenth article of that treaty, of which the following is a translation:

"ARTICLE 14. The citizens of the United States of America who shall transport into the Kingdom of Tunis the merchandise of their country, in the vessels of their nation, shall pay three per cent. duty. Such as may be laden by such citizens, under a foreign flag, coming from the United States or elsewhere, shall pay ten per cent. duty. Such as may be laden by foreigners on board of American vessels, coming from any place whatever, shall also pay ten per cent. duty. If any Tunisian merchant wishes to carry merchandise of his country, under any flag whatever, into the United States of America, and on his own account, he shall pay three per cent. duty."

This article is subversive of our great revenue system: it is, besides, without reciprocity. It cannot be important to the Bey and Regency, though ruinous to us.

The revenues of the United States arise chiefly from duties on goods imported. These duties generally exceed ten per cent. They are imposed on our own merchants, and increased on the merchants of foreign nations. Our treaties with those nations stipulate that no higher duties shall be paid by their subjects than by those of the most favored nation. Consequently, if this article in the treaty with Tunis should be ratified by the

American Government, the duties on all the goods imported into the United States by the subjects of those foreign nations must be reduced to three per cent. This would necessarily involve the reduction of the duties on goods imported in our own vessels, or our whole navigation would sink under the unequal burden. This sacrifice, then, it is impossible to make. We should thereby deprive ourselves of the means of supporting our own Government, of paying our public debts, and even of fulfilling our engagement with the Bey and other Barbary Powers. While no advantage would arise to the Bey and his *proper subjects*, probably a few European and Jewish merchants, settled at Tunis, would alone be benefited.

For these reasons, the President cannot apprehend any difficulty in your obtaining the Bey's consent to abolish the fourteenth article before mentioned. In its place may be substituted a stipulation that the commerce of the United States with Tunis, and of Tunis with the United States, should be on the footing of the commerce of the most favored nations, for the time being, respectively. At all events, the fourteenth article must be rejected, if war should be the consequence.

This evil, however, by every soothing and persuasive measure, you will endeavor to prevent. Should, it nevertheless, be insisted on, it will evidently be for the purpose of extorting further stipulations for the delivery of money or stores; but the demand must be resisted. As the article is destitute of any reasonable foundation, without a precedent in any treaty with any other Barbary Power, and strikingly wanting reciprocity, a submission to it would be dishonorable to the United States. If, to prevent a war, anything should be added to the very burdensome contract already made, that addition should not have any reference to the fourteenth article, but be stipulated at large, on the conclusion of the new article or articles which you may negotiate.

The Senate have revisited the ratification of the treaty, with the exception of the fourteenth article alone; but the eleventh and twelfth articles are objectionable. In firing salutes in the ports of the two Powers reciprocally, to return gun for gun will be proper; but, as the Tunisian vessels of war would probably never enter the ports of the United States, while the vessels of war of the latter were likely often to enter the ports of Tunis, to stipulate for the donation of a barrel of powder for every gun which shall be required for the salute, was to authorize the levying of a contribution in a way not very honorable on either side. It will, therefore, be desirable to expunge this stipulation, and to confine this article to mutual salutes, gun for gun; and it will be very well to limit the number to *fifteen*, the federal salute. The twentieth article of the treaty with Algiers requires a mutual salute of twenty-one guns; and, if there be any motive to induce the Bey of Tunis to require a salute of more than fifteen guns, the number may be increased to *twenty-one*. If, nevertheless, the Bey should persist in claiming a barrel of powder for every gun fired in his ports, for a salute to a vessel of war of the United States, then it

The Sinking Fund.

will be of more consequence to limit the number of guns to at least fifteen, and at most to twenty-one.

In the twelfth article it is stipulated that "the subjects or citizens of the two nations shall be protected by the government or commandants of the places where they may be, and not by the other authorities of the country." This is not very intelligible: possibly it may mean that the officers on the spot shall furnish such protection, without obliging the citizens of the United States in the Tunisian dominions, or the subjects of Tunis in the United States, to seek it at a distance, if the seat of Government be distant; but, if such protection be withheld by subordinate officers, the persons needing protection ought not to be forbidden to resort for justice to the chief authority in each nation. But the clause most objectionable in this article is that which permits the *Government of Tunis* to compel an American captain to put his vessel into its service at such freight as the Government itself shall prescribe. This will put it into the power of any merchant resident at Tunis, who has the ear of the Bey or of one of his chief officers, to command the service of American vessels for compensations wholly inadequate and unreasonable. The fourteenth article of the treaty with Algiers is proper and honorable: "Should the Dey want to freight any American vessel in the Regency or Turkey, *said vessel not being engaged*, in consequence of the friendship subsisting between the two nations, he expects to have the preference given him, *on his paying the same freight offered by any other nation*."

The three articles in question may be changed into the following forms:

"ARTICLE 11. When a vessel of war of one of the parties shall enter a port of the other in which there is a fortification, he shall be saluted with fifteen guns, which salute the vessel of war shall return, gun for gun."

ARTICLE 12. The first part may stand as it is as far as the words (in the English translation,) "which may extend to merchant vessels, but not to those of war;" after which the article may be thus continued: "The subjects and citizens of the two nations, respectively, shall be protected, in the places where they may be, by the officers of the Government there existing; but, on failure of such protection, and for redress of every injury, the party may resort to the chief authority in each country, by whom adequate protection and complete justice shall be rendered."

"In case the Government of Tunis shall have need of an American vessel for its service, such vessel being within the Regency, [and not previously engaged,] the Government shall have the preference, on its paying the same freight as the Tunisian merchants usually pay for the same service, or at the like rate, if the service be without a customary precedent." The words, in brackets, [and not previously engaged] if objected to, may be omitted.

"ARTICLE 14. All vessels belonging to the citizens and inhabitants of the United States shall be permitted to enter the different ports of the king-

dom of Tunis, and freely trade with the subjects and inhabitants thereof, on paying the usual duties that are paid by all other nations at peace with the Regency. In like manner, all vessels belonging to the subjects and inhabitants of the kingdom of Tunis shall be permitted to enter the different ports of the United States, and freely trade with the citizens and inhabitants thereof, on paying the usual duties that are paid by all other nations at peace with the United States."

Or, if preferred, the fourteenth article may be in the following form:

"The commerce of the citizens and inhabitants of the United States with the kingdom of Tunis, and of the subjects and inhabitants of the kingdom of Tunis with the United States, shall be on the footing of the most favored nations, for the time being, respectively."

Some such form is indispensable: it is impossible to place the commerce of the Tunisian subjects on a better footing than that of the most favored nation; and there must be an exact reciprocity in the stipulation.

A copy of the act of the Senate on this subject is annexed. By that you will see that an alteration in the fourteenth article only is essential; but you will aim at the proposed alterations in the eleventh and twelfth articles.

SINKING FUND.

[Communicated to the Senate, December 11, 1799.]

The Commissioners of the Sinking Fund respectfully report to Congress as follows: That the measures which have been authorized by the Board, subsequent to their report of the 15th of December, 1798, so far as the same has been completed, are fully detailed in the report of the Secretary of the Treasury to this Board, dated the 10th of December, 1799, and in the proceedings of the officers of the Treasury therein referred to, which are herewith transmitted, and prayed to be received as part of this report.

SAMUEL LIVERMORE,

President of the Senate, pro tem.

DECEMBER 11, 1799.

The Secretary of the Treasury respectfully reports to the Commissioners of the Sinking Fund: That no purchases of the public debt of the United States have been made, since the date of the last report to Congress, on the 15th day of December, 1798; and that the sums of capital stock heretofore purchased and transferred, prior to the present year, in trust for the United States, the interest whereon is appropriated by law towards the reduction of the public debt, amount to two millions seven hundred and thirty-four thousand four hundred and seventy-nine dollars and forty-four cents, as will more particularly appear from the document hereto annexed, marked A.

That the following sums have been applied towards the discharge of the principal debt of the

Mint of the United States.

United States, since the date of the last report to Congress, of the 15th of December, 1798:

1. To the fourth instalment of the six per cent. stock, bearing a present interest, which, pursuant to the act, entitled "An act making further provision for the support of public credit, and for the redemption of the public debt," passed on the 3d day of March, 1795, and the act in addition thereto, passed on the 28th day of April, 1796, became payable on the first day of January, 1799, the sum of - - \$674,938 02
2. To the payment of the seventh instalment of the subscription loan for bank stock, due on the first day of December, 1798, - - 200,000 00
3. To the payment of the second instalment of a loan of one million of guilders, obtained in Holland, and which fell due the present year, pursuant to a contract, dated the 1st of June, 1787, estimated at 40 cents per guilder, - 80,000 00
4. To the payment of the first instalment of a loan of one million of guilders, obtained in Holland, and which fell due in the present year, pursuant to a contract, dated the 13th of March, 1788, estimated at 40 cents per guilder - - 80,000 00

Amounting in the whole to - \$1,034,938 02

The payments before enumerated have been made out of the following funds:

1. The interest on the sums which accrued upon the stock purchased, and vested in the Commissioners of the Sinking Fund, in trust for the United States, as particularly stated in the document hereto annexed, marked B, \$89,375 72
2. The fund arising from the payment of debts, which originated prior to the present Constitution of the United States, as particularly stated in the document marked C, - - 6,710 68
3. The fund arising from the sales of lands in the Northwestern Territory, as particularly stated in the document hereto annexed, marked D, - - 11,963 11
4. The fund arising from dividends on the capital stock belonging to the United States, in the Bank of the United States, from the 3d of March, 1795, to the 30th of June, 1798, after deducting the interest paid on the subscription loan for the same period, as particularly stated in the document hereto annexed, marked E, - - 144,889 08
5. The fund arising from a loan obtained of the Bank of the United States, pursuant to the 6th section of the act passed on the 3d of March, 1795, entitled "An act

making further provision for the support of public credit, and for the redemption of the public debt," and agreeably to a resolution of the Board of Commissioners of the Sinking Fund, of the 15th December, 1798, approved by the President of the United States, 200,000 00

6. The proceeds of the duties on goods, wares, and merchandise, imported; on the tonnage of ships or vessels, and on spirits distilled within the United States, and stills, appropriated by the 8th section of the act of March 3, 1795, entitled "An act making further provision for the support of public credit, and for the redemption of the public debt," being for the period, and in reference to the objects, mentioned in this report, 581,999 43

\$1,034,938 02

Making in the whole an equal amount to the reimbursement before mentioned.

There remained in the hands of the Treasurer of the United States, as agent of the Board of stant, the sum of five hundred thousand seven hundred and eighteen dollars and fifty-five cents, which, with the growing produce of other appropriated funds, will be sufficient for the reimbursement, at the close of the present year, of the fifth instalment of the six per cent. stock, bearing a present interest, and the eighth instalment of the subscription loan for stock of the Bank of the United States, which reimbursements are required to be made by the 11th section of the act of Congress, passed on the 3d of March, 1795, hereinbefore mentioned.

All which is most respectfully submitted, by
OLIVER WOLCOTT,

Secretary of the Treasury.

TREASURY DEPARTMENT, Dec. 10, 1799.

[The tables of details are omitted.]

THE MINT.

[Communicated to Congress, January 8, 1800.]

To the President of the United States:

The Director of the Mint respectfully reports, that there has been coined and issued from the Mint, from the first day of January, to the thirty-first day of December, 1799, inclusive, the quantity of 213,285 dollars, in gold coin; 423,515 dollars, in silver coin; and 9,106 dollars and 68 cents, in copper cents; amounting to 645,906 dollars and 68 cents, or 1,365,681 pieces of coin; which, added to the former returns, makes the whole of the coinage, since the establishment of the Mint, 696,530 dollars in gold, 1,210,158 dollars and 75 cents in silver, and 50,111 dollars and 42 cents in copper

Mint of the United States.

cents; making the amount of the whole coinage of the Mint, 1,962,800 dollars and 17 cents; all which will more fully appear by the enclosed returns from the Treasurer of the Mint; as also, that the coinage of the last year has exceeded that of any former year, by 100,208 dollars 68 cents.

It is almost needless to observe, that the 50,000 dollars in copper coin, required by the second section of the act of Congress, passed on the 8th of May, 1792, being now completed, it becomes necessary for the Treasurer of the United States to comply with the provision of the said section, by giving the public notice therein mentioned.

The Mint has been regularly supplied with bullion, both gold and silver, so as to keep it in constant operation, on the present establishment, during the year past, excepting two months, in which the works were totally stopped, on account of the then prevailing fever; and there is a rational prospect that the supply will be continued for the present year.

From the late arrangements with regard to supplies of copper planchettes, for the coinage of cents, there is no doubt but that one press, equal to the coining of 1,400 per day, may be kept in constant operation.

It becomes necessary for the Director to draw the attention of the President to the act of Congress for the establishment of the temporary and permanent seat of the Government of the United States. By the original institution of the Mint, it was established at the seat of Government. By the sixth section of the act of Congress, above referred to, it is enacted "that all offices attached to the seat of Government, shall be removed to the permanent seat of the Government of the United States, by their respective holders, on the 1st day of December next." A question has arisen under this act, whether the Department of the Mint is included therein or not. If it is, without further provision by law, the Mint must be removed, with the other Departments, agreeably to the directions of that act; and if it is not, many necessary provisions must be made by law, applicable to the Mint being carried on at a distance from the seat of Government. The doubtful consequences of a removal must strike every person acquainted with the business of the Mint, as it is in a great measure supported by the bullion passing through the different banks of this city, and for want of which, it would frequently be without the means of coinage, while the expense would be nearly the same to the Government. The Director, therefore, thinks it is his duty respectfully to submit to the President the propriety of bringing this subject before Congress, in the early part of the session; this step is rendered more obviously necessary, from the present state of the machinery of the Mint. The works ought to be kept in perfect repair, unless they are so soon to be removed; in which case some parts, not worth the transportation to so great a distance, might be suffered to remain as they are, or barely kept in such repair as to answer for immediate use.

The Director is sorry to observe, that the practice of melting down the coin of the United States,

by workmen in gold and silver, is, he fears, becoming too common, to the manifest loss of the United States. As there are not any laws prohibiting it, every one is left to his own discretion, which, from the certainty of the standard, becomes so great a convenience, if not a pecuniary advantage, as to render the prevalence of the practice almost beyond a doubt, if not prohibited by law.

All which is respectfully submitted to the President.

ELIAS BOUDINOT, *Director.*

January 1st, 1800.

MINT OF THE UNITED STATES,

Treasurer's Office, Jan. 1st, 1800.

A statement of the denomination and value of gold coins issued from the Mint of the United States, from the 1st of January to the 31st of December, 1799, inclusive, viz:

17,483 eagles	-	-	\$174,830 00
7,451 half-eagles	-	-	37,255 00
480 quarter-eagles	-	-	1,200 00

\$213,285 00

BENJAMIN RUSH.

The DIRECTOR OF THE MINT.

MINT OF THE UNITED STATES,

Treasurer's Office, Jan. 1st, 1800.

A statement of the denomination and value of silver coins issued from the Mint of the United States, from the 1st of January to the 31st of December, 1799, inclusive, viz:

423,515 dollars	-	-	\$423,515 00
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BENJAMIN RUSH.

The DIRECTOR OF THE MINT.

MINT OF THE UNITED STATES,

Treasurer's Office, Jan. 1st, 1800.

A statement of the denomination and value of copper, coined at the Mint of the United States, from the 1st of January, to the 31st of December, 1799, inclusive, viz:

904,585 cents	-	-	\$9,045 85
12,167 half-cents	-	-	60 83

\$9,106 68

BENJAMIN RUSH.

The DIRECTOR OF THE MINT.

MINT OF THE UNITED STATES,

Treasurer's Office, Jan. 1st, 1800.

I certify there has been coined at the Mint of the United States, from the commencement of the establishment, to the date hereof, as follows, viz:

Gold	-	-	-	\$696,530 00
Silver	-	-	-	1,216,158 75
Copper	-	-	-	50,111 42

\$1,962,800 17

BENJAMIN RUSH.

The DIRECTOR OF THE MINT.

*Mint of the United States.**

[Communicated to the Senate, March 14, 1800.]

Mr. HILLHOUSE, from the Committee to whom was referred the Message of the President of the United States, of the 8th day of January, 1800, together with the Report of the Director of the Mint, of the first of January last, made the following report:

That the existing law requires the removal of the Mint to the permanent seat of Government; that such removal would, in many respects, be inconvenient; but the policy of keeping up that establishment, in a situation where its operations will not be under the immediate superintendency and direction of the principal officers of Government, is questionable.

It appears by official reports, that, on the 31st of December, 1799, there had been coined and issued from the Mint, since its first establishment, in gold, \$696,530; in silver, \$1,216,158 75; and in copper, \$50,111 42; amounting, in the whole, to \$1,962,800 17. That the expense, during the same period, has been \$213,336 02, of which sum there has been reimbursed by the payment of cents and half cents into the Treasury, \$48,041 42; leaving a balance of \$175,254 60; an expense, in the opinion of the committee, disproportionate to the advantage which has been derived from a circulation of the coins of the United States, which have been very limited, and mostly confined to places in the vicinity of the Mint.

To furnish coin sufficient for a circulating medium throughout the United States would be impracticable, unless the powers of the Mint should be greatly increased, and the practice of melting down the coin, and the exportation to foreign countries, prevented; which may be done by debasing the coin—a measure which the committee cannot recommend.

The providing a fixed and permanent standard, by which the value of property, contracts for money, and foreign coins, shall be regulated, is an object of great importance. This may be effectually done without the aid of a permanent Mint establishment: for it is not an indispensable requisite, that the whole circulating medium should be of the coins of the United States. Wholly to exclude foreign coins from circulation, if not impracticable, would be attended with great inconvenience, especially in the extreme parts of the Union.

The banks afford the most effectual guard against the circulation of base coin; a regard to their own interest will induce caution, and such coin will not be there received for more than its intrinsic value; which will fix the rate at which it will have a currency. An authority might be, by law, vested in the bank, for ascertaining the intrinsic value of coins of a new impression, by assaying them at the expense of the United States: for these purposes the present Mint establishment cannot be necessary.

Causes, in their nature temporary, have hitherto furnished a great proportion of the bullion which has been coined at the Mint, and the committee has not discovered any mode which can in future be relied on, for furnishing a regular and certain sup-

ply, but that of prohibiting the circulation of foreign coins, and converting them into bullion, which seems to have been the mode contemplated. In addition to the inconvenience attending this measure, the committee are strongly impressed with an apprehension, that it will be ineffectual, unless the transporting bullion to the Mint, and the replacing the value in coin, is to be at the risk and expense of the United States: for the difference in value between bullion and coin will be so small, that no individual would be induced to take upon himself the risk and expense: and the vast extent of the territory of the United States, the foreign commerce which is carried on from the various ports, almost wholly disconnected from, and independent of each other, and there being no place where the trade of this country is, or can be concentrated, will always make that risk and expense an object of no small importance.

The furnishing a supply of cents and half cents sufficient for circulation, would, in the opinion of the committee, be a desirable object, but they are well satisfied that the Mint, upon its present establishment, will not furnish such supply. The efforts of almost seven years have done very little towards it. Perhaps a more economical, and the most effectual, mode would be by contract.

Though the coining of gold and silver may, at times, be deemed expedient, there will still remain a doubt as to the propriety of keeping up the present Mint establishment: and the committee have no hesitation in declaring it as their opinion that a plan may be devised, which will be more eligible, and better comport with economy, and the interest of the United States, for securing every object of importance in relation to a national coin.

As the removal of the Mint must be attended with expense, and probably a derangement of many of the officers, if a change of the system is to take place, the present is beyond a doubt the most convenient time for effecting it.

The committee, therefore, recommend the following resolutions:

Resolved, That a committee be appointed to bring in a bill for repealing the first section of the act, entitled "An act establishing a Mint, and regulating the coins of the United States," and such other sections, and parts of sections, of said act, and other acts, as relate to the establishment of a Mint, and to provide for taking care of the materials and property appertaining to the Mint, and which belong to the United States.

Resolved, That the Secretary of the Treasury be directed to report a plan for furnishing the United States with cents and half cents, and such other coins as shall be deemed necessary or expedient.

A general statement of the expense of the Mint establishment, from its institution to the 31st of December, 1799.

Incidental and contingent expenses and repairs of the Mint, including purchase of ground and buildings thereon, in Seventh street, Philadelphia:

Additional Revenues.

From the institution of the Mint to the 31st December, 1797	-	-	\$73,773 96
From 1st January to 31st December, 1798	-	-	10,836 57
			<u>\$84,610 53</u>

Copper purchased for coinage.

From the institution of the Mint to the 31st December, 1797,	135,498½ lbs.	-	34,427 48
From 1st January to 1st December, 1798, 22,829 lbs.	-	-	7,110 22
			<u>41,537 70</u>

Salaries of the officers.

From the institution of the Mint the 31st December, 1797	46,494 15
From 1st Jan. to 31st Dec., 1798	10,600 00
Do. Do., 1799	10,600 00
	<u>67,694 15</u>

Wastage in the coinage of silver.

For this sum, applied to make good the wastage, as settled at the Treasury	2,820 71
Amount of warrants drawn on the Treasurer of the United States, for the Mint establishment, including purchase of copper for coinage, in the year 1799, and exclusive of the salaries of the officers, the account of the expenditure thereof not finally settled	- 16,672 93
	<u>213,336 02</u>

The payments of cents and half cents into the Treasury, from the institution of the Mint to the 31st December, 1799, have been	-	-	<u>\$48,041 42</u>
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JOSEPH NOURSE, *Register.*TREASURY DEPARTMENT,
Register's Office, February 20, 1800.

ADDITIONAL REVENUES.

[Communicated to the House of Reps., April 30, 1800.]

Mr. HARPER made the following report: The Committee of Ways and Means having, in a former report, wherein they recommended a loan of three millions and a half for the service of the present year, adverted to the propriety of providing permanent revenues, equal to the interest of the debt to be incurred, and to the gradual and timely extinguishment of the principal, now beg leave to call the attention of the House again to that important subject; on which they submit the following report:

The first point which presented itself for the consideration of the committee, in examining this subject, was "the amount for which it would be proper to establish additional revenue at this time." This must depend on the present and future increase of permanent expenditure, compared with the probable amount of permanent revenue from existing taxes.

When Congress, in the year 1798, was compelled, by the continued aggressions of a foreign Power, to commence active and extensive preparations

for defence, by sea and land, the ordinary expenditure of the Government, including the interest of the public debt, the payment on account of the principal, and an adequate allowance for occasional grants and incidental expenses, was something less than seven millions of dollars. No increase, of any consequence, has been made in this expenditure, since that time, except what was occasioned by the interest of the debt, which the measures necessary for the defence of the country forced Congress to contract. As this debt amounts to five millions, at eight per cent., the increase, on that account is \$400,000.

The continuation of those measures, for some time longer, having rendered it necessary, in the opinion of the House, to contract a further debt of three millions and a half, for the present year, that measure, if ultimately adopted, and carried into effect on the same terms with the former, which may perhaps be found unavoidable, will induce a further increase of \$280,000 in the ordinary expenditure of the Government, making, in the whole, an increase of \$680,000 for the interest of new loans.

It is known that, at the beginning of next year, a further addition of about \$1,200,000 must be made to the ordinary expenditure, for the interest and extinguishing annuity of the deferred debt: and that, in 1802, the payments on the foreign debt will be larger, by one million, than in the present year. In 1803 and 1804 those payments will be increased to two millions beyond their present amount; but, after that period, they will gradually diminish, and, in 1809, they will finally cease, by the extinguishment of the debt.

The committee, however, though they have thought it useful to extend their view to this more remote increase of expenditure, are of opinion that it is not necessary for Congress to make provision, now, on that subject. No part of this increase will take place till two years hence; and before that period arrives, Congress will have a better view of the political and financial situation of the country than at present, and will be better able to judge respecting the means of meeting the exigency. But yet, the certainty of this future increase proves the necessity of providing, as far as can be conveniently done, for that which has already taken place, or must soon happen; so that the burden may be divided between different periods, and as little as possible may be left to be done hereafter.

Neither do the committee think it necessary to make provision, during the present session, for the deferred debt. The political situation of the country is now far more uncertain, than, in all probability, it will be at the next meeting of Congress. Should it change for the better, as there is reason to hope, the augmentations now to be made, together with the increase of revenue which we may reasonably expect, from our present system, may be sufficient, with some small aids, for defraying this additional expense. If, on the contrary, our situation should remain the same, still we shall have more experience than we now possess of the operation of our present system, and of the effect

Additional Revenues.

of the war on our commerce and our revenue. The preparatory arrangements, moreover, for an amelioration and enlargement of our system, will then be completed, or in a much more advanced state than at present. We shall, consequently, be then in a better situation than we now are for judging whether a further augmentation will be necessary, to what extent it must be carried, and how it may best be made.

It is only for the interest of the loans of the present and last years, therefore, and for a sum equal to the reimbursement of the principal, within a convenient time, that the committee would propose to make provision, during the present session of Congress.

That interest, at the highest calculation, will amount to \$680,000. It is known that an extinguishing annuity, or a sinking fund, equal to two per cent. on the principal of a debt, will, if steadily applied, extinguish it in about twenty-four years. This is the plan heretofore adopted by Congress for the extinguishment of the six per cent. stock; and the committee conceive that it may be safely adhered to, in all arrangements for a similar purpose: it appearing certain that, while adequate provision is made for the punctual discharge, within so short a period, of every new engagement, there can be but little reason to apprehend a dangerous or inconvenient accumulation of debt.

This annuity of two per cent. on the loans of the last and present years, admitting the latter to be fixed at \$3,500,000, will amount to \$170,000; and, added to the amount of interest, will produce an aggregate expenditure of \$850,000, annually, for twenty-four years. As this annuity, however, by the terms of the former loan, which are likely to be found necessary in the present, also, cannot, until the end of ten years, be applied to the discharge of this particular debt, it must be employed, should Congress think fit to raise it, in the purchase of the public debt in general, by way of sinking fund. The committee are of opinion that every consideration of sound policy, and the best established principles of financial economy, are in favor of raising it.

At the period above referred to, the Summer of 1798, the Government possessed a revenue of something more than eight millions of dollars, derived from the duties on imports and tonnage; the tax on domestic distilled spirits and stills, on retailers licenses, on refined sugar, on carriages, and on sales at auction; the postage of letters; dividends of bank stock belonging to the United States; and some other less considerable branches of revenue. As the ordinary expenditure, at that time, was less than seven millions, there was a balance of a million and upwards in favor of the Treasury.

Had the revenue continued equally productive in the subsequent year, 1799, there would have been no need of further provision at this time; since the above mentioned balance would have been more than sufficient to cover the increase of permanent expenditure. But this was not the case. The duties on imports and tonnage, which,

in 1798, produced \$7,405,420, fell, in 1799, to \$6,437,886—a diminution of very nearly one million; and although the stamp duties, and perhaps the other branches of the internal revenue, were more productive in that year than in the former, yet that increase, amounting to only \$200,000, was far from sufficient to counterbalance the diminution in the imports and tonnage.

It is not, however, to be apprehended, in the opinion of the committee, that the diminution in question will be permanent. On the contrary, they suppose it to have resulted from two causes, of a temporary nature: first, the extensive depredations on our commerce, which took place in 1796, 1797, and 1798, especially the two former, the full effect whereof was not felt in the revenue, till 1799, because it was in that year that the duties on the imports of 1798 became payable; and secondly, the great re-exportation of foreign commodities in 1799, which amounted to \$45,523,335, exceeding, by \$12,000,000, those of any former year, and which drew from the Treasury very great sums in drawbacks. As this branch of the revenue is bottomed on the consumption of the country, which, notwithstanding occasional fluctuations, has a constant progressive increase with the increase of population and wealth, the committee conceive that it may be expected soon to regain its former level, and gradually to augment. In proof of which they remark, that the first quarter of the present revenue year, the returns of which are before the House, exceeds in product the first quarter of the last year, or of 1797, and very nearly equals that of 1798.

This event, however, though highly probable, as it seems to them, being still uncertain, and the revenue, in its present state, being unequal to the increased scale of expenditure, resulting from the interest of this and the last year's loans, and to a reasonable provision for deficiencies, and for the extinguishment of the principal; the committee conceive it proper, and even indispensable, to provide, at present, for the additional sum of \$850,000, at the least. More, they think, will not now be necessary.

Having come to this conclusion, as to the amount of the sum which it would be expedient to provide for at this time, they next turned their attention to the ways and means of making the provision.

As the official situation of the Secretary of the Treasury gives him more exact and extensive information, on the subject of revenue, than any other person can be supposed to possess, and enables him to form the most correct opinions respecting the probable operation, and comparative merits, of different schemes of taxation, the committee thought it proper to address their inquiries, in the first instance, to him, and wait for the result of his deliberations, before they should decide. For this purpose was written the letter, of which a copy, No. 1, is subjoined to this report.

In his answer, which, together with the statements therein referred to, No. 2, is also hereto annexed, the Secretary proposes to augment the duties on several kinds of wine; to raise those arti-

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cles which now pay a duty of ten per centum ad valorem, to $12\frac{1}{2}$ per centum; and to make a new arrangement respecting drawbacks on goods re-exported, the effect of which would be, to impose a tax from about 15 to 18 per centum of their whole amount, on the drawbacks now allowed. This effect would be produced, by refusing, altogether, the drawback on certain articles, which are enumerated in the paper C, accompanying the Secretary's letter, and by withholding a greater or less part of it on a variety of other articles, in the manner stated in the paper B, referred to in the same letter.

The Secretary has informed the committee that he expects, from these three measures, should they be adopted, an addition to the revenue of about \$900,000 annually. But he has not stated what part of this addition he expects from each measure separately. The two first he proposes to make perpetual. The third, the tax on drawbacks, he would continue no longer than during the present war in Europe.

When they proceeded to the examination of this plan, they found no difficulty as to that part of it which relates to the augmentation of duties.

Wines, indeed, are now highly taxed; but, being a mere luxury, which is consumed solely by people in affluent or easy circumstances, they appear to be a very proper object of revenue; and it is not apprehended that a moderate increase of the duty would diminish the consumption, or endanger smuggling. This reasoning, as the committee conceive, will be confirmed by a statement of the amount of duties on wines, which is annexed to this report, (No. 3.) and from which it appears that, from 1794 to 1797, inclusive, the net product of those duties has increased from \$457,308 to \$524,135, although no additional duty has been laid during that period. The returns for 1798 are too incomplete to be taken into the calculation. During the latter part of that period, indeed, there has been a fall in this product, as that of many other branches of the revenue; but it appears from the average, that this fall is more than counterbalanced by the rise in the former part, and the committee conceive that such fluctuations, arising from accidental and transient causes, are always to be expected, and that the average of a number of years can alone afford a safe criterion whereby to judge on subjects of this kind.

It is, moreover, to be observed, that the duties on wines have, hitherto, been injudiciously laid, so as to produce a strong temptation to enter high priced wines, which pay a very high duty, under the names of those of a low price, whereon the duty is comparatively low. There is reason to believe, as the committee are informed by the Secretary of the Treasury, that much loss to the revenue has already been experienced from this cause. The plan contained in his new tariff, the paper B, proposes to remove this cause, by a different adjustment of the duties in question.

As the average product of the duties on wines appears, by the statement No. 3, to be upwards of \$600,000, an addition of twenty per cent. on the amount of the present duty would produce \$120,-

000. This addition, it is conceived, might be safely made, in the manner proposed by the Secretary of the Treasury.

As to the articles paying a duty of ten per cent. ad valorem, which are very numerous, and of great value, including all woollen goods, white cottons, and nankeens, with other articles of less importance, the committee are of opinion, with the Secretary of the Treasury, that an additional duty of two and a half per centum on the value of the article may be safely laid on them. The present duties on all articles paying a rate per centum, ad valorem, of which the ten per cent. constitute a great proportion, probably two-thirds, were fixed in 1792, except a few, which were raised from 10 to $12\frac{1}{2}$ per cent. in 1797; and they produced their full effect in 1793: from the end of which latter year, until the end of 1798, the net product of those duties rose from \$2,319,817 to \$2,717,657, as appears by a statement, No. 4, which is subjoined to this report. The increase, indeed, must probably have been greater, as the returns for the last mentioned year, 1798, are very incomplete—two quarters being wanting from Philadelphia, as many from Charleston, and four from Savannah; which deficiencies will, probably, be found to have produced a greater deduction from the product in 1798, than can have been made up for by the additional duties laid in 1797. This progressive increase, notwithstanding the intermediate fluctuation, appears to the committee to prove, satisfactorily, that the importation of the articles in question is not injuriously affected by the present duty; which may, therefore, be safely augmented to the amount proposed.

There is another consideration on this head, which is conceived to be of great weight. These articles are all imported from distant places, on general freight, and in ships of great value; which circumstances so much increase the difficulty and hazard of smuggling, as to leave little danger of its being attempted, under the operation of any duties that the consumption will bear. They are, moreover, in the same situation with many other articles, such as muslins, muslinets, and colored cottons, which now pay the proposed duty of $12\frac{1}{2}$ per cent.

The average net product of the ad valorem duties, from 1794 to 1798, inclusive, a period of five years, being \$3,181,173, as appears from the statement above mentioned, No. 4, it follows that, if the ten per cents be supposed to constitute two-thirds of the whole mass, which is probably the case, the additional $2\frac{1}{2}$ per cent. proposed to be laid on them would produce \$600,000.

As to the third proposition of the Secretary, the tax on drawbacks, it appeared liable to more doubt.

In support of the plan, it was urged, that the great mass of our re-exportation consists in commodities, chiefly sugar and coffee, which we bring from the East and West Indies, and afterwards carry to Europe, for the consumption of France, Holland, and Germany; and in East India and China goods, wherewith we supply the people of the West Indies and of South America. That

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the commerce of France, Holland, and Spain, being annihilated by the events of the war, and that of Sweden and Denmark very inconsiderable, the carrying trade may be considered as almost exclusively possessed by the English and ourselves. That the English, being at war with France, Spain, and Holland, and thereby excluded from the ports of those nations in Europe, Asia, and America, cannot enter into competition with us, in the business of supplying their possessions, especially those in South America and the West Indies, with East India and China goods; and that we, consequently having the exclusive possession of this traffic, may lay what price we please on the goods re-exported; and, of course, may compel the consumers to repay to us the tax laid on those goods here, by the refusal of part of the drawback. That the same reasoning will apply, in a great degree, to the supply of Europe with sugar, coffee, and other East and West India commodities, because France, Holland, and Spain, being shut against the English, by the war, they cannot become our competitors for the direct supply of those countries. That, as to the indirect supply, through the ports of Germany and Portugal, especially the former, which are by far the most considerable, we can furnish it on better terms than they; because they are excluded from many of the countries where the commodities are produced, and because their trade with the north of Germany is exposed to great danger and interruption from the French and Dutch privateers. And, finally, that the English are less liable to enter into a competition which we ought to dread, inasmuch as the monopoly of their East India trade, by a particular company, prevents individual enterprise and ingenuity from being excited in carrying it on, upon the best terms; and as the English Government itself has laid a duty on exports, during the war, equal to that proposed by the plan under consideration: so that her merchants and ours being on an equal footing, in that respect, they could not underbid us in the foreign markets to which both resort.

From hence, it was concluded that, while the war in Europe, and the present state of things resulting from it, shall continue, a tax on drawbacks, such as that proposed, would be a tax, not on our own commerce or our own merchants, but on foreign nations, who, being the consumers of the re-exported commodities, whereon the tax would fall in the first instance, and being compelled, during the war, at least, to purchase those commodities from us alone, would be under the necessity of repaying to us the tax, in addition to the price which we should otherwise demand.

To this it was answered, that the whole argument rests on the supposition of our being able to effect two things, both of which are of a very uncertain nature, namely to monopolize the business of supplying the countries in question with East and West India and China commodities, and to compel those commodities to touch first at our own ports, before they are carried to the places where they are consumed: it being clear that if, by raising the price of the commodities, we should

raise up competitors, who would underbid us in foreign markets; or should, by taxing them on their arrival in our ports, render it the interest of our merchants to carry them directly from the places of their production, to the places where they are to be consumed, without landing them in this country; we should, in either case, lose the duty: in the first, by ruining altogether the trade, whereon it must depend; and, in the second, by turning the trade away from our own ports, where alone the duty can be collected.

Whether we should be able to monopolize the business in question, to such an extent as to have it in our power to lay our own price on the commodities which compose it, was said to be very uncertain, for various reasons: First, because the English possess very far the greater part of those places, in the East and West Indies, where the valuable commodities consumed in Europe are produced, and their merchants can carry them directly from thence to the ports of Germany, or of Denmark and Sweden, from whence they would easily find their way into Holland and France. Secondly, because the duty on exports laid in England, may easily be avoided by her merchants, by means of going directly to the foreign markets, instead of first touching at home; and the danger of privateers is greatly lessened, by the convoy which she gives to her trade, and the great number of her squadrons and cruising frigates in those seas—circumstances whereby her trade is, probably, rendered more secure than ours. And, thirdly, because, although her merchants cannot carry the East India and China goods, directly, to the French, Spanish, and Dutch possessions, in the West Indies and South America, they can and do carry those goods, in immense quantities, to their own islands; from whence they are known to find their way, by means of an illicit trade, perhaps connived at by those employed to prevent it, into the places of which we suppose ourselves to possess the exclusive supply.

As to the example of England, which is said to have laid our export duty analogous to the tax or drawbacks now proposed, it was observed, in the first place, that the experiment in England has not been long enough made to enable us to judge of its success; secondly, that so far as time has furnished information on that head, the experience of England is against the plan, her exports having diminished since the period when that tax was laid; and thirdly, that what is called a tax on exports in England, is, in fact, a premium paid for convoy, which the Government, in consideration of this premium, engages to furnish, and does furnish, to every ship sailing from her ports; an arrangement which enables shippers to obtain their insurance at a lower rate; so that the duty on exports, instead of being a tax on the trade of England, is merely a part of the premium of insurance, which the merchants pay to the Government, instead of paying to the underwriters: whereas, in our case, as we give no convoy, it would be a mere tax on our trade, which our merchants must pay in the first instance, and might or might not be able to get back from the consumers.

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If they should prove unable to get it back from the consumers, by reason of the competition, which the augmentation of price, consequent to the duty, might create or increase, the trade must, in the end, be ruined; and with it must perish, not only a great portion of our revenue, and of our navigation, the basis of our future maritime strength, but also of the industry of our seaport towns, which is nourished and sustained by our navigation.

If, on the other hand, they should prove able to levy this tax ultimately on the consumers, still it was urged, would the question remain, whether the tax would be sufficient to induce the merchants to avoid our own ports, and either to go directly to the consumers, from the places where the commodities are produced, or where that cannot be done, to touch at some ports where no such duty is laid; in either of which cases, we should not only lose the revenue expected from this duty, but also affect, to a degree not easily foreseen, all those branches of industry, in our country, which are connected with the landing, storage, and re-shipment of goods, and the arrival, repair, and supply of ships.

The duty of two and a half per cent. on the amount of a valuable cargo, it was observed, is a premium sufficient to afford a very strong temptation to avoid our own ports. Men of small capital, who could only import parcels of goods on freight, might not be able to do this, and therefore must pay the duty; while large capitalists, who import entire cargoes, in their own or in chartered ships, might be able to do it, and thus avoid the duty; whereby a monopoly would be created, to the very great detriment of our commercial interest, the prosperity of which depends far more on the mass of small capitalists than on the small number of great ones.

It was further urged, that this measure, so hazardous in itself, and the mischiefs whereof, should it prove unsuccessful, must always take place, and may have become irremediable before they can be perceived, is by no means necessary, since the two first parts of the Secretary's plan, the additional duties on wines and the ten per cent. articles, will afford an additional revenue of from six to seven hundred thousand dollars; to which might be added \$200,000 by a half cent per pound additional on brown sugar; and \$50,000 by a like addition, per pound, on coffee—making, in the whole, an additional revenue of at least \$900,000; which is more by \$50,000 than the sum proposed to be raised.

It was shown, by a statement of the duties on brown sugar, for six successive years, which is annexed to this report, No. 5, that the net product of that article, at a duty of one and a half cents per pound, from the beginning of 1793 to the end of 1797, a period of five years, increased from \$646,715 to \$735,671; and that the average net product, for a period of six years, from 1793 to 1798, inclusive, was \$586,292. It was contended that, although an addition of half a cent was made to that duty in 1797, and the product in 1798, nevertheless, appeared to be less than in

former years, being only \$630,791, as stated from the returns, yet no conclusion unfavorable to the duty could be drawn from thence; because the returns for that year were very deficient; two quarters being wanting from Philadelphia and Charleston, and four from Savannah; which, probably, had reduced the apparent amount much more than the actual receipt had been augmented by the additional duty.

Hence, it was inferred, that the consumption and importation of brown sugar had not yet been injuriously affected by the former duty; and that the average net product being at the rate of \$200,000 for every half cent of duty, that sum might be expected from the proposed augmentation.

On the subject of coffee, it was shown, by a statement of the duties on that article, for six successive years, from 1793 to 1798, inclusive, which is also annexed herewith, No. 6, that the average net product of those duties, during the period in question, was \$498,762, although the returns for the last year in the period were incomplete, as has been already stated, and no addition has been made to the duty since 1792. Hence, it was inferred that an additional half cent might safely be laid on that article also; which, as the present duty is five cents per pound, would produce the sum of \$50,000.

Such were the arguments for and against the proposed tax on drawbacks; and such the objects of revenue, which it was thought might, with more safety and propriety, be adopted in its stead. The committee did not deem it their province to pronounce any decision on these points, but solely to bring them into the view of the House, and submit them to its consideration. There was, however, one proposal made, which does not appear to them to be of a doubtful nature, and which they have, therefore, thought it proper to recommend.

In the act allowing drawbacks, there is a provision, that one per cent. on the whole amount of them shall be retained, in order to defray the expense of management. Afterwards, one quarter per cent. was added to this first deduction, in lieu of stamp duties on debentures. It has been suggested by the Secretary of the Treasury, that the sum thus retained is found insufficient to defray the expenses incident to the allowance of drawbacks; and the committee are of opinion that it will be proper to double it. In that case, the reduction made by the Government for the expense of management, and in lieu of stamp duties on debentures, will amount to about \$100,000 annually, which, as the present amount does not exceed \$50,000, will be a further addition to the revenue of \$50,000.

Having thus brought the whole subject into view, as fully as seemed to them to be proper, the committee beg leave, in order to take the sense of the House on the various matters stated in their report, to submit to its consideration the following resolutions.

1st. *Resolved*, That it is expedient to lay an additional duty of — per centum on the amount

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of the present duty upon wines imported into the United States.

2d. *Resolved*, That it is expedient to lay an additional duty of — per centum ad valorem on such goods, wares, and merchandises, imported into the United States, as are now subject to a duty of ten per cent. ad valorem.

3d. *Resolved*, That it is expedient to lay a tax on drawbacks allowed by law, for goods re-exported from the United States, according to the plan proposed in the letter of April the 10th, 1800, from the Secretary of the Treasury to the Committee of Ways and Means.

4th. *Resolved*, That it is expedient to lay an additional duty of — per pound on brown sugar and coffee imported into the United States.

5th. *Resolved*, That it is expedient to retain — per centum on all drawbacks allowed for goods re-exported from the United States, for the expenses incident to the allowance thereof, and in lieu of the stamp duties on debentures, in addition to the sums heretofore directed, by law, to be so retained for the aforesaid purposes.

No. 1.

COMMITTEE ROOM, Feb. 14, 1800.

SIR: The Committee of Ways and Means, conceiving it proper for Congress to establish, during the present session, permanent revenues equal to the interest of the loan which may be necessary to make this year, and perhaps, to that of last year also, the amount of which two charges will, probably, not fall short of six hundred and eighty thousand dollars, annually, have directed their attention to the inquiry, "from what sources this additional revenue may be drawn, with the least difficulty to the Government, and the greatest ease to the public." Before, however, they come to any final resolution on so important and difficult a subject, they wish to obtain your opinion on the following points:

1st. Admitting the necessity of providing for both loans, can the requisite sum, or any considerable part of it, be raised by an addition to the duties on certain articles imported? What are those articles, and to what amount may new duties be laid on them? The committee have thought of wines, spirits, brown sugars, and woollen cloths. Salt, also, has been suggested as an article on which a further duty might perhaps be laid.

2d. Admitting a further duty to be laid on wines and spirits imported, will it not be necessary to make a corresponding augmentation on the tax on stills, and domestic distilled spirits? And can such augmentation be made with due regard to the situation of remote parts of the country?

3d. What would be the policy of abandoning altogether the idea of augmenting the imposts, and resorting to an internal tax, by way of excise, on wines, spirits, coffee, teas, and sugars? Or, would it be better to adopt both modes, in part?

4th. As a change will, probably, be made this year, in the mode of stamping, which will render it proper to call in and change the stamps, might

not those duties be safely augmented, so as to raise a further sum of one hundred thousand dollars?

5th. Might not a national lottery be established, so as to raise from one hundred thousand to one hundred and fifty thousand dollars annually? And how far would such a mode of taxation be advisable?

In addition to your opinion on these several points, sir, the committee would be much obliged by the communication of any ideas which may have occurred to you on the subject in general. And as the interest and extinguishing annuity of the deferred debt will commence next year, they beg you to take into view the means of providing for those objects likewise.

With the highest respect, I have the honor to be, sir, &c.

ROBERT G. HARPER.

HON. SECRETARY OF THE TREASURY.

TREASURY DEPARTMENT, April 10, 1800.

SIR: I have, with the aid of the best information which I could obtain, deliberately considered the important questions, upon which, on behalf of the Committee of Ways and Means, you have been pleased to request my opinion.

Although, according to my view of the subject, the public debts have not hitherto considerably increased, since the establishment of the existing Government; yet, as the expenditure, at the present time, considerably exceeds the stated income from duties and taxes, an augmentation of the revenue appears to be advisable.

The sources from which this revenue may be expected, with the greatest ease to the community, are believed to be the following:

1st. From an increase of duties on the importation, and a new arrangement of drawbacks, payable on the exportation of certain articles of foreign growth or manufacture.

2d. From a new modification of the duties on stills employed in the distillation of spirits from domestic materials.

3d. From a duty on the transfer of real property, to be collected by stamps.

The first mentioned subject being the most complex, and of great importance, considered both in relation to the interests of commerce and the revenue, is separately presented to the consideration of the committee.

The paper herewith transmitted, marked A, exhibits a view of the rates of duties at present levied on imports; that marked B is respectfully offered as a substitute.

It is proposed to increase the duties on several kinds of wines, and generally to impose a duty of twelve and a half per centum, ad valorem, on the merchandise at present subject to duties at ten per centum; a few articles only, of no great importance, are placed in the list of goods subject to the rate of fifteen per centum.

It is known to the committee, that the quantities of articles of foreign growth or manufacture, which are imported into the United States for the

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purpose of being exported, have greatly increased, and are still increasing; the sum of one and one quarter per centum upon the duties at present retained, is found, on calculation, to be hardly sufficient to defray the custom-house expenses, occasioned by this branch of business. After a very close examination of the subject, it is my opinion that the revenue may be increased, and the manufactures of the country encouraged, by reducing the drawback in the mode proposed, without injury to commerce.

This opinion will, it is believed, receive a confirmation, from an examination of the commercial and financial systems, and actual situation of the countries with which our commerce of importation and exportation is, at present, prosecuted; to guard, however, against the consequences of any mistake, it is respectfully proposed that the present rates of drawback shall be allowed after the termination of the present war in Europe.

I have the honor to be, with the greatest respect, sir, &c.

OLIVER WOLCOTT.

HON. ROBERT G. HARPER, *Chairman, &c.*

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TREASURY DEPARTMENT, April 12, 1800.

SIR: In compliance with your request, I have the honor to inform you that, if the tariff of duties and drawbacks, which accompanied my communication of yesterday, shall be established, the revenue will probably receive an addition of about nine hundred thousand dollars per annum.

I have added, at your request, a particular list of the articles upon which the duties are proposed to be increased or varied.

I have the honor to be, with respect, sir, &c.,

OLIVER WOLCOTT.

HON. ROBERT G. HARPER, Esq.

[The tabular statements, being voluminous, are necessarily omitted in this work.]

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PUBLIC DEBT.

[Communicated to the House of Reps., May 18, 1800.]

Mr. GRISWOLD, from the committee who were appointed, on the twentieth of March, to examine the accounts of the United States, relating to the public debt, and to report the amount respectively incurred and extinguished, and, generally, such facts as relate to the increase or diminution of the same, since the establishment of the Government of the United States, under the present Constitution, made the following report:

That, for the purpose of obtaining every statement from the Treasury which could elucidate the subject of inquiry, they addressed a letter to the Secretary of that Department, on the twenty-fourth of March, a copy of which is subjoined to this report, and, on the twenty-ninth of April they received his answer, transmitting sundry statements, numbered from 1 to 9, inclusive, and exhibiting, in the most clear and satisfactory man-

ner, the most important of the Treasury operations in relation to the debt, from the commencement of the present Government. These statements, together with three letters from the Secretary, on this subject, are now submitted to the House; and, although it is certainly possible that some trivial errors may have taken place in the details which these documents contain, yet the committee are perfectly confident that the general results which they produce must be correct.

The statements numbers 1 and 2, contain an account of the receipt and expenditure of all public money, from the commencement of the Government, and, whilst they show the application of the revenue to the debt, they will present, at the same time, in one view, every expense with which the Treasury has been charged, and enable the Legislature, with more accuracy, to decide how far those objects, or the amount of expense, in particular cases, may be diminished.

The order of the House having particularly directed the attention of the committee to the increase or diminution of debt, they have thought it their duty to bring into view the amount of debt with which the present Government commenced its operations, and to contrast the same with the balance of debt on the first of January, in the present year. In discharging this duty, it will become necessary to explain the principles on which these statements rest, which the committee will do, in as concise a manner as possible. But, before they enter upon this detail, they cannot forbear to express the satisfaction which they feel, in declaring that the documents which have been obtained from the Treasury will, in their opinion, fully demonstrate the precision and ability with which the business of the Department has been conducted, and that, by the fiscal operations of the Government, the public debt has been diminished.

In ascertaining the amount of the old debt, two different principles have been taken by those who have made their calculations on this subject. The first has been to include only the interest upon the debt to the close of the year 1789, as the nearest convenient period to the day when the Government commenced its operations, and, after deducting from the aggregate of debt the amount of funds then in the power of the Government, to consider the balance as the amount of old debt. The second principle has been, to take the amount of debt as the same has been liquidated and funded, under various acts of Congress, and after deducting therefrom the funds acquired or possessed by the Government at the close of the year 1790, to consider the balance as constituting the true amount of old debt. The difference between these principles consists in this: by the last mode of computation, the interest which accumulated upon the debt, subsequent to the close of the year 1789, and until the debt was funded and provided for, by law, is considered as a part of the old debt, whereas, by the first mode of computation, that interest is totally excluded.

In consequence of a difference in opinion, which, it is understood, still exists on this point, the committee have thought proper to state the debt in

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both modes, that the results, in both cases, may be perfectly understood.

The nominal amount of debt, on the 1st of January, 1790, as appears by statement No. 9, amounted to - \$72,237,301 97

The funds then in possession of the Government, and to be deducted, were—

Cash in the Treasury,
January 1, 1790 - \$28,239 61

Cash in the hands of
collectors - - - 83,127 84

Bonds at the custom-
houses - - - 590,468 60

Debts due to the United
States, under con-
tracts of the late Gov-
ernment, collected at
sundry times - - 62,586 74

Debts paid in specie dur-
ing the year 1789 - 15,927 13

Proceeds of the sale of
land to the State of
Pennsylv'nia, made by
the late Government 151,392 41

931,742 33

Amount of debt, January 1, 1790 - 71,305,559 64

By the same document, it appears that the debt contracted by the late Government, as the same has been liquidated and funded by acts of Congress, amounts to - - - \$76,781,953 14

That the funds possessed by this Government, on the 1st of January, 1791, and to be deducted from the debt, were as follow:

Cash in the Treasury,
January 1st, 1791 - \$570,023 88

Cash in the hands of
collectors - - - 225,786 95

Custom-house bonds un-
collected - - - 1,052,215 13

Money collected from
the credits of the late
Government, as in the
preceding statement - 62,586 74

Debts paid in specie dur-
ing the year 1789 - 15,927 13

Sale of land to Penn-
sylvania - - - 151,392 41

Debts purchased and
discharged during the
year 1790 - - - 518,424 08

2,596,356 32

True amount of debt, January 1st,
1791 - - - 74,185,596 82

By the same document, No. 9, it ap-
pears that the debt, exclusive of tem-
porary loans, on the first of Janua-
ry, 1800, amounted to - - - \$76,651,820 30

Temporary loans, without deducting
bank shares - - - 3,640,000 00

Nominal amount of debt, January 1st,
1800 - - - 80,291,820 30

Funds acquired by the Government,
and which may be applied to face
the foregoing debt:

Cash in the Treasury, January 1st,
1800, deducting therefrom the
amount of unclaimed registered
debt, and debt due to foreign offi-
cers, which are to be considered, at
times, as a charge on all the specie
balance in Treasury \$2,061,683 49

Remittances to Holland,
beyond the sum ne-
cessary to meet all
demands on the for-
eign debt, to the close
of the year 1799 - 548,955 84

Cash in the hands of col-
lectors and supervisors 532,247 81

Bonds uncollected at the
custom-houses, esti-
mated at six millions,
payable, on an ave-
rage, at six months,
deducting the interest
for that term, leaves - 5,826,214 00

2,220 shares of bank
stock, cost \$888,000

Advance, 25
per cent. - 222,000

Value - 1,110,000 1,110,000 00

10,079,101 14

True amount of debt, January 1st, 1800 70,212,718 16

For the purpose of showing the rapidity with which the public debt was diminishing, at the time when the hostility of France compelled the Government to incur those great and extraordinary expenses which appear in the Treasury statements, and to enter upon that extensive system of defence, which has resulted in the security of our commerce, the committee have thought it necessary, in addition to the preceding statements, to present a view of the debt on the first of January, 1798, remarking, at the same time, that the reduction which at that time had been made, proves, in the most satisfactory manner, the case with which the debt may be extinguished, whenever the Government shall be left unembarrassed by internal disorder or foreign hostility.

The nominal amount of debt, on the
1st of January, 1798, was - \$76,366,618 82

Funds to be deducted, were—

Cash in the Treasury,
January 1st, 1798 - \$1,021,889 04

Cash in the hands of
collectors - - - 265,369 03

Cash in the hands of
supervisors - - - 32,964 39

Value of bonds uncol-
lected at the custom-
houses, January 1st,
1798, estimated at - 6,309,058 00

Bank stock, at its value 1,110,000 00

8,739,280 46

True amount of debt, January 1st,
1798, - - - 67,627,338 36

Public Debt.

From whence it results that, if the amount of debt on the 1st of January, 1800, is contrasted with the debt on the first of January, 1790, it will appear that the debt has diminished by the sum of \$1,092,841 48, or, if it is compared with the debt of January 1st, 1791, the debt has diminished by the sum of \$3,972,878 66; so that, in either mode of stating the account, it clearly appears that the debt has in fact been diminished.

It is, perhaps, of little importance whether the one or the other of the preceding views is taken of the public debt, as the result, in either case, will be highly favorable to the financial operations of the Government; the committee, however, have inclined to the opinion that the debt, as it has been liquidated and funded by the Government, after deducting the amount of funds which arose prior to the 1st of January, 1791, ought to be considered as constituting the true amount of debt with which the present Government has been charged by the Constitution.

It is perfectly clear that no part of the national debt can, with propriety, be considered as new debt, which arose prior to the complete establishment of the present Government; and it is equally certain that the funded debt originated from the contracts of the late Government, and although it is certain that the interest, for a certain period after the present Government commenced its operations, was suffered to accumulate, and now composes a part of the capital of the debt, yet it will be recollected that the Government commenced its operations without revenue, without any system of finance, or funds of any description, to meet even the ordinary civil list expenditure; that every plan which was ultimately adopted, for the purpose of revenue, was to be devised, matured, and finally carried into execution, before any money could be brought into the Treasury; that, from the nature of things, a considerable time must necessarily have elapsed before the Government could be considered as completely established, before any arrangements could be made, either for liquidating the debt or providing the means of discharging the interest arising thereon, and that, during that period, the interest (as had been the case before the adoption of the Constitution) did necessarily accumulate; but the committee believe that this accumulation of interest is entirely chargeable to the imbecility of the late Government, and, of course, ought to be considered as composing a part of the old debt. It may likewise be remarked, that the sum which was lost by this accumulation of interest was more than replaced by the terms on which the debt was funded.

The debt which had been contracted by the late Government generally bore an interest at six per cent., and the large arrearage of interest which had accumulated thereon had been long due, and might have been demanded by the creditors in cash; but, by the terms of the new contracts with them, that interest was converted into a capital, bearing an interest of three per cent., and the difference between the value of that stock and specie, has been gained by the Government; so that,

in whatever point of view this subject is considered, it appears clearly to the committee that the old debt cannot be considered as composing a sum less than that at which it has been funded.

The committee would not have thought it necessary to explain the principles on which they have deducted, from the nominal amount of debt, at the various periods when they have stated the same, the amount of funds acquired or possessed by the Government at those periods, respectively, had not the propriety of those deductions been formerly questioned. It is, however, understood to be now admitted that all the items composing those funds form a proper deduction from the amount of debt, except the bonds remaining uncollected at the custom-houses; this item alone, it has been said, ought to be excluded from the account.

The propriety of deducting these bonds, together with the other items, from the debt, has appeared to the committee so apparent, that they have found some difficulty in rendering a principle more intelligible, which to them appears self-evident.

The object of every statement of this nature must be to ascertain the balance of debt; and to do this, it is apparent that the debts and credits of the Government must be drawn into the account. The principle which applies to the accounts of an individual, applies in the same manner to the accounts of a nation; the amount of debt can, in neither case, depend on the amount of accounts, but upon the balance which results from a comparison of debt and credit; that these bonds are the property of the Government has not been controverted, and if there is any meaning in terms, they contain personal engagements for money, and must be credits; the obligation to pay these bonds could be no stronger, if they had been executed by individuals for money loaned, nor would the mode of collection be in the least varied; and whilst the effect is precisely the same with that of all credits, it remains for those who place them on different principles to explain the grounds of distinction.

That they have been executed for duties is true, but the credit which is thereby given to the merchant is entirely for his accommodation; and such are the express provisions of the law, which requires that the duties on goods shall be paid or secured before they are landed, at the option of the importer. The duties are to be paid or secured, not upon the consumption, but upon the importation, and the bonds which have at any period been taken for duties, and which remain uncollected, are to be considered as securities for the revenue of the preceding year; the Government has nothing to do with the goods on which duties have been secured after the bonds are taken; whether they are consumed or destroyed, neither increases or diminishes the obligation of the merchant to pay the contents of his bond. A further circumstance may be adverted to, which, if anything can render this point more clear and certain, may, perhaps, produce that effect—it is the consideration that a considerable amount of these bonds have already been pledged for the payment

Public Debt.

of a part of the debt. The temporary loans which appear in the preceding statements have all been obtained in anticipation of the money arising from the bonds; and it would be a singular case, indeed, if the pledge, which is confessedly of greater value than the debt, and from the proceeds of which the debt must in fact be discharged, is to be totally excluded from a general account of debts and credits.

In reviewing the progress and present situation of the debt, the committee have been led to consider the causes which have hitherto retarded its extinguishment. The deranged state, or rather total want of funds and revenue, at the commencement of the Government, has been already noticed, and it cannot be necessary to add, that the delays which necessarily attend all financial operations, at their outset, must have prevented the Government, for a considerable time, from extending the revenue so far as convenience and policy might afterwards require; but the committee deem it important to add that the extraordinary expense which has arisen within a few years, has swallowed up large sums of the public wealth, and diverted the application of those moneys which might otherwise have gone to the extinguishment of debt, to objects connected with the honor, and, in some cases, with the immediate existence of the Government.

In this class of expense will be included a large sum occasioned by the Indian war, one million two hundred and fifty thousand dollars expended in quelling two insurrections in the State of Pennsylvania, more than one million and a half expended in our transactions with Algiers, and other Mediterranean Powers, together with a much larger expense occasioned by the unprovoked aggressions of France upon this country. Had it been possible steadily to have applied those various sums to the purchase of debt, it is easy to conceive how rapidly the same might have been extinguished. The committee have likewise noticed the large sums which have been necessarily expended in the erection of light-houses, repairing fortifications, in purchases for replenishing our military and naval arsenals, and in the building, purchase, and equipment of more than forty sail of ships and armed vessels, together with a considerable loan to the Commissioners of the City of Washington. The money expended on these objects, it is well known, arise to a very large amount, and the property thus acquired by the Government, and which is now on hand, cannot be estimated, on the most moderate calculations, at a sum less than four millions of dollars. The value of this property might be considered as composing another item in the credit of the general account of debt, but the committee have not thought it necessary to include it, and have noticed it particularly at this time, for the purpose of exhibiting a more general view of the extraordinary expense incurred by the Government, and for the purpose of presenting all that information in relation to the debt which will enable the House accurately to appreciate the great and increasing resources of the country; and on this point the

committee cannot forbear to remark, that the progress of the Government, in its financial operations, must afford the most flattering presages of its future success, if the same system is pursued which has hitherto proved so successful. It cannot certainly be unworthy of remark, that ten years have not at this time elapsed since the Government fairly commenced its operations; that, during that period, it has been necessary to liquidate, to fund, and to provide for a large capital of floating debt, which had grown out of the disorders of the Confederation; that, during the same short period, the Government has been compelled to contend with one expensive war on the frontier, with two insurrections in the centre of our own country, and with depredation and hostility from the nations of Europe; that these embarrassments have nevertheless been faced by the Government; most of the difficulties have been surmounted; the debt has been liquidated and diminished; and the nation has still continued to increase in wealth and population, beyond all former example; and although the contest in which we are now engaged may, for a short period, retard the further extinguishment of debt, or perhaps produce a small addition to that which already exists, yet it cannot be doubted that, whilst we maintain order at home, no exterior circumstances can exhaust or greatly diminish the increasing resources of the nation.

PHILADELPHIA, *March 24, 1800.*

SIR: I have the honor to enclose the copy of a resolution which passed the House of Representatives on the 20th instant.

The committee who have been appointed, in pursuance of this resolution, have directed me to request from you such a statement of the public accounts, relating to the debt, as will enable them, with the greatest facility and accuracy, to make a report on this subject.

The principal object contemplated, is to ascertain, with precision, how far the public debt has been increased or diminished since the establishment of the present Government.

With a view to this object, it will naturally occur that two general accounts are necessary.

1st. An account exhibiting the amount of debt incurred, under the Confederation, and with which the present Government has been charged by the Constitution.

2d. An account of the existing debt, at the latest possible period, which it is presumed must be on the first day of January, 1800.

In respect to the first of these accounts, it is requested that the whole amount of the old debt, of every description, may be given, arranged under distinct and proper heads, as the same has been funded, assumed, liquidated, or otherwise ascertained, by acts of the Government, or settlement at the Treasury. It is, however, desired, that the account may be so stated that the interest which accumulated after the commencement of the present Government, and which has, in any shape, been converted into capital, may distinctly appear.

Estimate of Appropriations.

The interest herein particularly alluded to, has accrued upon the foreign debt, upon loan-office certificates, together with other evidences of debt, prior to the 1st of January, 1791, on the assumed debt, prior to the 1st of January, 1792, distinguishing, however, the interest which accumulated in the last year, and on the debt due to certain creditor States, to the close of the year 1794.

In respect to the account for exhibiting a view of the debt on the 1st of January, 1800, it will, of course, contain a complete statement of the old and new debt, together with the purchase and reimbursement of so much of the same as has been already discharged; but it is the wish of the committee that the payments in specie, which have been made, under authority of direct grants from the Legislature, may be particularly stated, and the aggregate brought into one view.

The committee likewise request an account of payments for military pensions, cash in the Treasury, cash in the hands of collectors, and an estimate of the current bonds at the custom-houses, deducting debentures and estimated drawbacks.

An estimate of the value of public property, acquired by the present Government, is likewise desired; including the capital employed in trading houses, light-houses, and other public buildings, public ships, arsenals, with their contents, and fortifications.

The amount of extraordinary expense incurred by the Government, in consequence of events which it is hoped will not be repeated, is also requested. Under this head will be included the expense of treaties with the Mediterranean Powers; the two insurrections in Pennsylvania, and the war with the Indian tribes; together with the extraordinary expense incurred in the Military and Naval Departments, in consequence of the present disputes with France, exclusive of ships, and stores in the arsenals.

It will likewise be satisfactory to the committee to be informed whether the assumed debt, including the interest which accumulated on the same, to the close of the year 1701, was not charged to the particular States in the settlement with them, and whether the temporary loans which have been obtained from the bank, have not been obtained on the principle of anticipating the revenue.

A statement of the account with the bankers in Holland, on its latest adjustment, and a general account of debts contracted and debts discharged, annually, will gratify the wishes of the committee.

The committee do not wish that the statements from the Treasury should be exclusively confined to the objects which have been particularly detailed: they submit to your judgment the propriety of furnishing any other statements which, in your opinion, will elucidate the object of inquiry. They take the liberty, however, to suggest, that, if the time can be spared at the Treasury, it might be useful to obtain a general account of receipts and expenditures, from the commencement of the Government. I have the honor to be, very respectfully, your obedient servant.

ROGER GRISWOLD.

Hon. Mr. WOLCOTT, *Sec. of the Treasury.*

6th Con.—41

TREASURY DEPARTMENT, *April 29, 1800.*

SIR: I have the honor to transmit, herewith, sundry statements, numbered from 1 to 9, inclusive, which have been prepared in pursuance of your letter of March 24, and which, I trust, will satisfy the inquiries of the committee appointed to report to the House of Representatives such "facts as relate to the increase or diminution of the public debt, since the establishment of the Government of the United States, under the present Constitution."

I have every reason to believe that the general results of these statements are entirely correct, and am unconscious of any defect in the details required by the committee, except in respect to the sums expended on fortifications, ships, arsenals, and other buildings, and in the purchase of military and naval stores. The sums stated under these heads have been necessarily founded on estimates, as a precise account could only be obtained from an examination of the transactions of the agents employed by each of the Executive Departments, and a valuation of the property now remaining in the possession of the Government. I trust, however, that I am not mistaken in assuring the committee that the value of the public property has not been overrated.

If the documents now transmitted should, in the opinion of the committee, require elucidation, their commands shall be executed with alacrity; it being certain, that, whatever opinions may be entertained respecting the increase or diminution of the public debt, in consequence of expenditures which have been authorized by the present Government, there can be no difficulty in determining the true state of all the facts by which those opinions must be supported. I have the honor to be, with perfect respect, sir, your most obedient servant,

OLIVER WOLCOTT.

HON. ROGER GRISWOLD, *Chairman, &c.*

[The tables, being voluminous, are necessarily omitted.]

ESTIMATE OF APPROPRIATIONS.

The Secretary of the Treasury respectfully reports to the House of Representatives of the United States, That, for the service of the year 1801, the following appropriations, as detailed in the estimates herewith transmitted, appear to be necessary:

TREASURY DEPARTMENT,
December 10, 1800.

For the Civil List, for the support of Government, including the contingent expenses of the several departments and offices	- \$594,701 37
For the payment of annuities and grants	- - - 1,753 33
For the support of the Mint Establishment	- - - 13,300 00
For the ordinary expenses of intercourse with foreign nations	- - - 85,000 00
For expenses incident to the treaties with Great Britain, Spain, and the Mediterranean Powers	- - 361,364 00

Estimate of Appropriations.

For the expenses of supporting the claims of citizens of the United States, to property captured and detained in foreign countries -	\$64,000 00
For aid to distressed American seamen in foreign countries, and occasional assistance after their arrival in the United States -	30,000 00
For defraying the expenses incident to the valuation of dwelling-houses and lands, and the enumeration of slaves, in pursuance of the act of Congress, passed on the 9th of July, 1798, and, in addition to the funds heretofore appropriated -	40,000 00
For the military department, including the pay of the Army, rations, clothing, hospital, ordnance, quartermaster and Indian expenses; the defensive protection of the frontiers, and contingencies, agreeably to the estimate of the Secretary of War -	1,400,001 00
For the payment of military pensions -	93,000 00
For the Navy Department, including the pay and subsistence of officers and men, hospital and contingent expenses; the support of the corps of marines; for completing navy-yards, docks, and wharves; and on account of building six seventy-four gun ships, agreeably to the estimate of the Secretary of the Navy -	2,342,352 95
For the fabrication of cannon and small arms, and the purchase of ammunition for the Army and Navy, and for the militia of the United States -	400,000 00
For the support of light-houses, beacons, buoys, and public piers, and other establishments for the security of navigation -	38,622, 70
For the second enumeration of the inhabitants of the United States -	60,000 00
For satisfying miscellaneous claims, including the expenses of returning the votes for President and Vice President of the United States -	5,600 00
Amounting in the whole to -	<u>5,529,695 35</u>

The funds out of which appropriations may be made for the purposes before mentioned, are:

1st. The sum of six hundred thousand dollars of the proceeds of duties on imports and tonnage, which will accrue in the year 1801, which sum is by law annually reserved for the support of Government.

2d. The surplus of the revenue and income of the United States, which may accrue, to the end of the year 1801, after satisfying the objects for which appropriations have been heretofore made.

The Secretary also transmits a statement of the receipts and expenditures of the United States, for the year prior to the 1st of October last, being the

latest period to which an account can be prepared. All which is most respectfully submitted, by
OLIVER WOLCOTT,
Secretary of the Treasury.

After this general statement the Secretary descends to a distinct specification of the several items; the most interesting of which, frequently in a condensed form, follow:

President and Vice President -	\$30,000
Senate and House of Representatives -	209,470
Judiciary -	78,900
Treasury Department -	92,713
Loan officers and clerks -	28,250
Department of State -	24,800
Mint -	23,600
War Department -	36,766
Navy Department -	24,489
General Post Office -	12,112
Surveyor General's Department -	28,200
Territory Northwest of Ohio -	5,500
“ “ Mississippi -	5,500
“ “ Indiana -	5,500
Demands unprovided for -	20,000
Annuities and grants -	<u>1,753</u>

Diplomatic Department.

The Secretary of State estimates the following sums for the expenses of foreign intercourse and treaties for the year 1801.

For one Minister Plenipotentiary to Great Britain -	\$9,000
One ditto to Prussia -	9,000
One ditto to Spain -	9,000
One ditto to Portugal -	9,000
One Minister Resident to the Batavian Republic -	4,500
Their secretaries (five) at 1350 dolls. each -	6,750
Contingencies other than personal -	2,750
Making good the deficiency for 1800, in the estimate for the mission to France -	20,000
One Consul General at Algiers -	4,000
One Consul at Tunis -	2,000
One ditto at Tripoli -	2,000
One ditto to the kingdom of Morocco -	2,000
Contingencies other than personal -	<u>5,000</u>
	<u>85,000</u>

Treaties.

For carrying into effect the Treaty of Amity, Commerce, and Navigation, between the United States and the King of Great Britain, viz:

For the salaries of the Commissioners under the 6th article -

For salary of the secretary, clerk-hire, stationery, &c., for ditto, -

The salary of agent relative to said article -

Clerk-hire and other contingencies of said agent's office -

Payment to special agents appointed by ditto -

The salaries of the Commissioners under the 7th article -

14,444

Estimate of Appropriations.

Clerk-hire, office rent, and other contingencies of ditto.	\$2,000
For deficiency of former appropriations for carrying into effect the Treaty between the United States and the King of Spain, particularly in running the boundary line, pursuant to the second article of the said treaty, and sundry contingent expenses of the military escort which attended the Commissioners of the United States	46,500
For the difference between the cost of stipulated articles in the annuity to the Dey and Regency of Algiers, and the permanent appropriation therefor	56,000
For fulfilling the engagements of the United States with the Mediterranean Powers, viz: Algiers, Tunis, and Tripoli	200,000
	<u>361,394</u>

Prize Causes.

For prosecuting the claims of American citizens for property captured by the belligerent Powers, viz:	
For the salaries of two agents residing in London	\$5,000
Their contingencies other than personal	4,000
For prosecuting claims before the high Courts of Admiralty and Courts of Appeals in England	45,000
Reimbursing Consuls of the United States for instituting and supporting claims to captured property, before tribunals in foreign countries	10,000
	<u>64,000</u>

Relief of Seamen.

For the salary of an agent residing in England, reimbursing Consuls and others for aid rendered to distressed seamen in foreign countries, bringing them home from thence, and assistance in the United States	30,000
For defraying the expenses incident to the valuation of lands and houses, and the enumeration of slaves within the United States, as directed by the late act of Congress of the 9th July, 1798, in addition to the funds heretofore appropriated for that purpose	40,000
	<u>70,000</u>

Military Establishment.

Pay of the Army, consisting of 1,400 officers, artificers, musicians, &c., and of 4,040 privates	480,390
Forage of ditto	7,680
Subsistence of ditto	306,395
Horses for ditto	5,000
Clothing, bounties, premiums, medical and hospital departments	203,530
Quartermaster's department	165,000
	<u>1,167,991</u>

Ordnance Department.

Expenses at Philadelphia	\$9,060
Armory at Springfield	53,592
Ditto at Harper's Ferry	24,540
Laboratory on Schuylkill	6,460
Five store-keepers	1,960
Rent	4,388
	<u>100,000</u>
Defensive protection of frontiers, &c.	30,000
Military pensions	90,300
	<u>1,390,991</u>

Indian Department.

Annuities to the Six Nations of Indians	4,500
Cherokees	6,000
Chickasaws	3,000
Creeks	1,500
Choctaws*	2,000
	<u>17,000</u>
Expenses attending the transportation of the above annuities, and also the annuities per act of the 6th of May, 1796,	11,500
Deduct so much appropriated	1,500
	<u>10,000</u>
Promoting civilization, pay of temporary agents, &c.	15,000
Contingent expenses for presents to Indians on their visits to the seat of Government, also for expenses attending their journeys, and during their stay, and on their return home, &c. &c.	7,500
Rations to Indians at the different military posts, and within their respective nations	22,500
	<u>72,000</u>

Naval Establishment.

1. United States, Constitution, President, Chesapeake, and Philadelphia—44 guns each.
2. Constellation, Congress, New York, and Insurgent—36 guns each.
3. Boston and Essex—32 guns each.
4. George Washington, General Greene, Adams, and John Adams—each 24 guns on main deck, and 8 on quarter deck.
5. Ganges, Connecticut, Maryland, Portsmouth, Merrimack, Patapsco, Delaware, and Baltimore—each 20 and under 32 guns.
6. Herald, Trumbull, and Warren—18 guns each.
7. Richmond and Augusta—16 guns each.
8. Eagle, Pickering, Scammel, Experiment, Enterprise—from 12 to 14 guns each.
9. Seven galleys.

*Although the Choctaws are not entitled to claim the above sum, by treaty, or authorized agreement, yet as beneficial effects are presumed to have resulted from the same grant made to them in the present year, the propriety and policy of renewing the appropriation is respectfully submitted.

The Sinking Fund.

The Secretary of the Navy makes the following estimate of the pay, subsistence, and other expenses of the following description of ships of war, viz:

Of 44 guns and 400 men	-	\$115,945
36 guns and 340 men	-	98,347
32 guns and 260 men	-	74,999
24 on gun deck, 8 on quarter deck, and 220 men	-	66,785
20 to 26 guns and 180 men	-	57,269
18 guns and 140 men	-	45,780
16 to 18 guns and 100 men	-	35,737
12 to 14 guns and 70 men	-	24,213
Galley 28 men	-	9,200

Marine corps, consisting of 1143 men, including officers	-	\$166,903
5 frigates of 44 guns	-	579,728
4 do. of 36 do.	-	393,391
2 do. of 32 do.	-	149,999
4 (smaller) of 32 guns	-	267,035
8 ships of 20 to 26 guns	-	458,158
3 sloops of war of 18 guns	-	137,341
2 brigs of 16 to 18 guns	-	71,474
5 brigs and schooners of 12 to 14 guns	-	121,069
7 galleys	-	64,400
Contingent expenses	-	37,850

Total, adding fractions, - 2,447,352

The Secretary further estimates:

For progressing with six seventy-four gun ships, and for completing navy yards, docks, wharves, &c.	-	\$500,000
For erecting marine barracks	-	20,000
For maintenance of French prisoners	-	30,000
And to make up the deficiencies of former appropriations for the maintenance of French prisoners	-	45,000

3,042,352 95

But the appropriations heretofore made for the different objects relating to the Navy will not be exhausted at the end of the present year, by a sum equal to \$700,000, so it may not be necessary to appropriate for the year 1801, for all the navy purposes, exclusive of providing timber to be laid up in store for future use, more than - 700,000

2,342,352 95

Estimate of the number of persons composing the crews of the Navy of the United States.

5 Frigates of	44 guns and 400 men,	2,000
4 Ditto	36	1,360
2 Ditto	32	520
4 Ditto, smaller,	32	880
8 Ships of	20 to 26	1,440
3 Sloops of	18	420
2 Brigs	16 to 18	200
5 Do. and schooners,	12 to 14	350
7 Galleys	28	196

Total, including marines. - 7,366

SINKING FUND.

[Communicated to the Senate, Nov. 28, 1800.]

The Commissioners of the Sinking Fund respectfully report to Congress as follows:

That the measures which have been authorized by the Board, subsequent to their report of the 11th of December, 1799, so far as the same have been completed, are fully detailed in the report of the Secretary of the Treasury to this Board, dated the 27th of November, 1800, and in the proceedings of the officers of the Treasury, therein referred to, which are herewith transmitted, and prayed to be received as part of this report.

JOHN E. HOWARD,
President of the Senate pro tem.

November 28th, 1800.

The Secretary of the Treasury respectfully reports to the Commissioners of the Sinking Fund:

That no purchases of the debt of the United States have been made, since the date of the last report to Congress, of the 11th day of December, 1799; and that the sums of capital stock heretofore purchased and transferred, prior to the present year, in trust for the United States, the interest whereon is appropriated, by law, towards the reduction of the public debt, amounts to four millions seven hundred and four thousand two hundred and nineteen dollars and sixty cents, as will more particularly appear from the document hereto annexed, marked A.

That the following sums have been applied towards the discharge of the principal debt of the United States, since the date of the last report to Congress of the 11th of December, 1799:

1st. To the fifth instalment of the six per cent. stock, bearing a present interest, which, pursuant to the act, entitled "An act making further provision for the support of public credit, and for the redemption of the public debt," passed on the 3d day of March, 1795, and the act in addition thereto, passed on the 28th day of April, 1796, became payable on the first day of January, 1800, the sum of - \$716,894 36

2d. To the payment of the eighth instalment of the subscription loan for bank stock, due on the last day of December, 1799 - 200,000 00

3d. To the payment of the third instalment of a loan of one million of guilders, obtained in Holland, and which fell due the present year, pursuant to a contract, dated the 1st of June, 1787, estimated at 40 cents per guilder - 80,000 00

4th. To the payment of the second instalment of a loan of one million of guilders, obtained in Holland, and which fell due in the present year, pursuant to a contract, dated the 13th of March, 1788, estimated at 40 cents per guilder - 80,000 00

Mint of the United States.

5th. To the payment of the first instalment of a loan of three millions of guilders, obtained in Holland, and which fell due in the present year, pursuant to a contract, dated the 1st day of January, 1790, estimated at forty cents per guilder - - - - - 240,000 00

Amounting in the whole to \$1,316,894 36

The payments before enumerated have been made out of the following funds:

1st. The interest fund on the sums which accrued upon the stock purchased, and transferred to the Commissioners of the Sinking Fund, in trust for the United States, as particularly stated in the document hereto annexed, marked B - - - - - \$522,323 11

2d. The fund arising from the payment of debts, which originated prior to the present Constitution of the United States, as particularly stated in the document marked C - - - - - 2,943 39

3d. The fund arising from dividends on the capital stock, belonging to the United States, in the Bank of the United States, from the 1st of July, 1798, to the 30th of June, 1799, after deducting the interest on the subscription loan for the same period, as particularly stated in the document hereto annexed, marked D - - - - - 29,040 00

4th. The proceeds of duties on goods, wares, and merchandise, imported, on the tonnage of ships or vessels, and on spirits distilled within the United States, and stills, appropriated by the 8th section of the act of March 3d, 1795, entitled "An act making further provision for the support of public credit, and for the redemption of the public debt," being for the period and in reference to the objects mentioned in this report - - - - - 762,587 86

\$1,316,894 36

Making, in the whole, an equal amount to the reimbursements before mentioned.

There remained in the hands of the Treasurer of the United States, as agent of the Board of Commissioners, on the twenty-fifth of the present month, one hundred and sixty-nine thousand and eighty-seven dollars and four cents, which, with the growing produce of other appropriated funds, will be sufficient for the reimbursement, at the end of the present year, of the sixth instalment of the six per cent. stock, bearing a present interest, and the ninth instalment of the subscription loan for stock of the Bank of the United States, which reimbursements are required to be made by the

11th section of the act of Congress, passed on the 3d of March, 1795, herein before mentioned.

All which is respectfully submitted, by
OLIVER WOLCOTT,
Secretary of the Treasury.
TREASURY DEPARTMENT, Nov. 27, 1800.
[Tables omitted.]

THE MINT.

[Communicated to Congress, January 21, 1801.]

MINT OF THE UNITED STATES,

January 2, 1801.

The Director of the Mint respectfully informs the President that the enclosed abstract of coin issued from the Mint of the United States, and struck since the 31st of December last, shows the amount to be three hundred and seventeen thousand seven hundred and sixty dollars, in gold coins; two hundred and twenty-four thousand two hundred and ninety-six dollars, in silver coins; and twenty-nine thousand two hundred and seventy-nine dollars and forty cents, in copper cents and half cents; making up, in the whole, the quantity of five hundred and seventy-one thousand three hundred and thirty-five dollars, and forty cents.

For the information of Government, the Director thinks it expedient to enclose a statement of the expenses and profits of the Mint for the year past, which, from a number of concurring circumstances, has been full as expensive as may hereafter be expected, extraordinary supplies or repairs excepted.

The Director has a peculiar satisfaction in informing the President that there has been received from the test bottoms and ashes, accumulated before his administration of the Mint, four hundred and twenty-eight dollars and forty-seven cents; which repays so much of the nine hundred and seventy-four dollars, heretofore allowed by Congress, as a deficiency in the former account of bullion, and that there is still a quantity of ashes remaining to be cleansed and refined.

The cents issued from the Mint, amounting, now, to the sum of seventy-nine thousand three hundred and ninety dollars and eighty-two cents, the proclamation required by law ought to be issued, by which all other copper coin will be put out of circulation.

The late act of Congress, directing the Mint to remain at Philadelphia, will expire in March next; some further legal provision will be necessary for its continuance here, or removal to the seat of Government. At all events, it will be necessary to provide some other mode of assaying the reserved pieces, set apart by direction of the act of Congress of the 2d of April, 1792, and required by that act to be done once in every year, under the inspection of the Chief Justice, the Secretary and Comptroller of the Treasury, Secretary for the Department of State, and the Attorney General, who are required to attend at the Mint, for that purpose. As it will be impracticable for those

Encouragement to Manufactures.

officers to leave the seat of Government, to comply with this part of the law, and the year will expire on the second Monday in February next, the Director respectfully submits to the President the propriety of recommending to Congress the necessity of a previous provision by law, to prevent a non-compliance with a positive injunction of an act of Congress.

The great rise in the price of copper, in Great Britain, has prevented so large an importation, and of course so large an issue of cents from the Mint, as would, otherwise, have been done, the public being now tolerably well supplied with that species of small change.

The Director thinks it his duty to inform the President that, having had occasion, during the past year, to have accurate assays made of Spanish milled doubloons, it was found that their real value, compared with the standard of the United States, was rather less than eighty-five cents the pennyweight; whereas, by the act of Congress, of the 9th of February, 1793, they are made a legal tender, at about eighty-seven cents the pennyweight, or, in the language of the act, "at the rate of one hundred cents for every twenty-seven grains and two-fifths of a grain, of the actual weight thereof" which creates a loss, on the part of the citizens of the United States, of twenty-seven dollars and forty-two cents on one thousand pennyweight. The official certificate of the assayer is enclosed with this report.

All which is respectfully submitted to the President.

ELIAS BOUDINOT, *Director.*

The PRESIDENT of the United States.

ENCOURAGEMENT TO MANUFACTURES.

[Communicated to the House of Reps., Feb. 2. 1801.]

Mr. SAMUEL SMITH, from the Committee on Commerce and Manufactures, to whom were referred the several memorials and petitions of sundry mechanics and manufacturers, of New York; of the Providence Association of Mechanics and Manufacturers; of the Asylum Company of Journeyman Printers of Philadelphia; and of John Davies, of Alexandria, praying for further encouragement to be given to the manufactures of the United States, by extending the duties on importation, reported:

That, in their opinion, it would be inexpedient, at the present time, further to increase the duties on imported articles.

To the Senate and House of Representatives of the United States, in Congress assembled, the memorial of the subscribers, mechanics and manufacturers, in the city of New York, respectfully sheweth:

Your memorialists, with deference to the superior discernment of Congress, entreat permission to call their attention to the subject of manufactures within the United States.

While the prosperity of agriculture and com-

merce are deservedly objects of national solicitude, the interest of the manufacturer is entitled to a share of attention.

It appears to your memorialists to be a principle of the most obvious policy, that the capital and labor of a State should be directed towards objects most conducive to the public prosperity.

A country so extensive as the United States, and comprehending such varieties of soil and climate, must, necessarily, afford a proportionable variety and quantity of materials for the purposes of manufacture. Wool, cotton, flax, iron, indigo, and numberless other articles, can, with care, be furnished in the greatest abundance; the addition of labor, only, is wanted, to convert them into valuable fabrics. Labor can be considerably facilitated by machinery, and the American genius is particularly adapted to mechanics.

Your memorialists do further respectfully represent, that the prosperity of a State is not only evidenced by its population, but that it likewise consists in the industry of its inhabitants; their usefulness to each other, and their independence of foreign Powers.

While destitute of manufactures, and dependent upon Europeans for a supply of those articles which nature or habit have classed among the necessities of life, we hold some of our principal blessings upon a precarious tenure, of which war or shipwreck may deprive us.

So long as we remain a nation of farmers and merchants merely, we shall be tributary to the Europeans; we shall lavish upon them the wealth that may be retained at home, and pay to them a tax, which is multiplied in every hand through which it passes.

The value of the raw material frequently bears an inconsiderable proportion to that of the manufactured article. The iron, which costs a single cent, is worth an eagle when moulded by the ingenuity of the artisan of Birmingham or Sheffield. To reward the labor of foreign artificers would be generous; but it would be just to remunerate the industry and ingenuity of our own countrymen and citizens.

With submission, your memorialists represent, that the introduction of manufactures would not militate against the interest of the American merchant. The manufactures of Britain constitute the foundation of her commerce. Should any branch of manufacture, when fostered by the protecting hand of Government, rise superior to our internal necessities, we should trust to its excellence to furnish it with a market. Should any branch of commerce be affected by the origin of domestic manufactures, the activity and enterprise of the merchant will not fail to discover a new employment for his capital. The increasing population and wants of our country will prevent a diminution of foreign commerce, for a long time; while the introduction of manufactures will support a domestic commerce, equally advantageous to the merchant, because it will employ his capital at much less hazard; more beneficial to the community, because its profits will be distributed among our own citizens; more conducive to the

State Balances—Insurrection in Pennsylvania.

prosperity of the Government, because the internal intercourse it will occasion, will tend to assimilate and strengthen the empire.

It is not on a sudden that manufactures can be established; they must be pursued with persevering diligence, and nursed by guardian care. They will have many obstacles to encounter, and will be opposed by those Europeans, whose interest it is to render us their perpetual tributaries. But this is a stage through which manufactures must inevitably pass. The weakness of infancy must precede the maturity and vigor of manhood; and unless a commencement is made, we shall have nearly the same obstacles to combat in the next century, that are opposed to us in the present. It appears, therefore, to your memorialists, to be the true interest of the United States to lay the foundation of infant manufactures, and to commence with such articles as can best be supported. When countenanced by the protection of the Government, they will gradually increase, and a new source of opulence and prosperity be opened to our country.

Nations the most polite and enlightened have ever bestowed the utmost attention upon manufactures; *they* have even cherished valuable fabrics by premiums and bounties, though your memorialists require not these inducements to call forth their enterprise and industry.

Your memorialists beg leave further to represent that, by some fatal inattention, the breed and numbers of our sheep are now on the decline, and with deference submit to the consideration of Congress, whether suitable measures should not be taken to encourage the raising and importation of these valuable animals.

And your memorialists do pray that Congress, by imposing protecting duties, and by such other measures as they, in their wisdom, may suggest, will afford encouragement to such manufactures and fabrics as may be most useful and most likely to succeed in the United States. Your memorialists take the liberty of suggesting, in a schedule, hereto annexed, such particular manufactures as they consider may be most successfully established, and your memorialists pray that such encouragement may be extended toward them, as, in the opinion of Congress, may be deemed proper and necessary.

And your petitioners, as in duty bound, will ever pray.

Mr. GRISWOLD, from the Committee of Ways and Means, to whom was referred the petition of Asa Benjamin, reported:

That the petitioner is a manufacturer of cordage, and states that, in consequence of the high price of labor, the manufacturers of that article are not able to afford cordage at so moderate a price as foreign cordage is sold at, in our own markets; and he prays that an additional duty may be laid on imported cordage.

The committee highly appreciate the importance of the cordage manufacture, and fully believe that, if any serious danger existed of the loss of this important branch of business, it would be

expedient that Government should immediately extend its patronage to it; but, from the best information the committee can collect, they are persuaded that no such danger exists.

And when it is recollected that imported cordage is already subjected to a high duty; that duties upon foreign goods must, in their nature, operate to give a bounty to the home manufacture of the same articles, and must be paid by the consumer, it is believed that the home manufacturers have not, at this time, any reasonable ground of complaint; and that an increase of duty, at this time, merely to increase the price of the article, would be unreasonable, as it respects the consumer.

The committee, therefore, report, that it is not expedient to grant the prayer of this petition.

STATE BALANCES.

[Communicated to the Senate, March 3, 1801.]

Mr. BLOODWORTH, from the committee appointed to inquire whether any, and what, further measures it is expedient to adopt with respect to the balances reported by the Commissioners appointed to settle the accounts between the United States and several States, made the following report:

That, as no disposition has been evidenced by any of the States, against whom balances were reported by the aforementioned Commissioners, except by the State of New York, to subscribe to the terms offered by Congress, a further continuance of the demand against those States, the justice and equity of which they do not admit, and for effecting the payment of which no measure of coercion can ever be resorted to, is not likely to answer any useful purpose, but, on the contrary, is calculated to occasion perpetual disquiet, as well to the creditor as to the debtor States. Under this, and every other view of the subject that they have been able to take, the committee are impressed with an opinion that it is advisable to extinguish the claim of the United States for the balances of those States who have declined accepting the terms of payment proposed by the act of Congress, passed on the 15th day of February, 1799.

INSURRECTION IN PENNSYLVANIA.

[Communicated to Congress, Dec. 5, 1799, by Message from the President of the United States.]

Letter from the District Judge of Pennsylvania,
PHILADELPHIA, March 11, 1799.

SIR: I cannot longer omit transmitting to you some documents which are enclosed, showing that a daring combination, and treasonable opposition to the laws of the United States, has recently been brought to a crisis, in Northampton county, in this district. I had some time ago issued my warrants against sundry offenders in that county who had been charged, on oath, with misdemeanors in entering into unlawful combinations to re-

Insurrection in Pennsylvania.

sist the law commonly called the house-tax law, and rendering it unsafe for the officers appointed under that act to perform their duties. The Marshal endeavored to execute my warrants, and had proceeded in the business as far as is related in the papers enclosed. The result may be gathered from these papers. But I have directed the Marshal to make a more accurate statement, which, with other proofs I daily expect, I will transmit. I shall proceed, when furnished with the necessary testimony, to issue warrants against those who took up arms and rescued the prisoners. But I fear the process cannot be executed without a military force: this, at least, seems to be probable from the opinions given in the enclosed papers, and from the facts therein stated. The same spirit exists in some parts of Montgomery and Bucks counties, though it has not yet arrived to the violent extreme exhibited in Northampton. I shall issue a number of warrants against offenders in those latter counties forthwith; and if any resistance should there happen, I will duly inform you, that you may lay the information before the President, to whom, I pray you, to transmit that herein given.

I have the honor to be, very respectfully, your obedient servant,

RICHARD PETERS,
Judge of the Pa. District, U. S.
Colonel TIMOTHY PICKERING,
Secretary of State.

Report of the Marshal of the District of Pa.

PHILADELPHIA, March 11, 1799.

SIR: On the 20th of February last the honorable Richard Peters, Esq. issued warrants against sundry persons residing in the county of Northampton, who had given opposition to the execution of the law of the United States laying a tax on lands and houses, and a number of subpoenas for witnesses there and in the county of Montgomery. The writs were put into my hands on the 23d; on the 26th I set out, and got to Norristown that night; on the next morning (the 27th) I set out from thence, and on that day served all my subpoenas in Montgomery, and on the 28th got to Emaus, in Northampton county. I was informed there that an express had arrived from Philadelphia with despatches informing them of my business, which created some alarm amongst the people in opposition in Millerstown and its vicinity. A meeting of a troop of horse was called there, of which a Mr. Jarrett, a Justice of the Peace, was the Captain. Messengers were sent to various places for purposes of which I was unacquainted. Next day I proceeded to Nazareth, saw Judge Henry and Mr. Eyerly, and on Saturday morning, the 2d instant, Mr. Eyerly and I rode into Lehigh township, where I arrested eleven persons, and on the next day took security from them that they would appear at Bethlehem, at the public inn, on Thursday morning, the 7th instant, to march with me to the city of Philadelphia, there to enter into recognizance to appear at the next circuit court to answer, &c. Five others

came in and signed the obligation. This being accomplished, we came to Bethlehem; set out for Macungy township in company with Colonel Stephen Balliot. We lodged that night at Emaus; next morning, the 5th instant, we set out for Millerstown; on our way I stopped at the house of George Seider to serve a subpoena on him as a witness on the part of the United States. His wife came to the door; on being asked for her husband, she abused me and the gentlemen with me. He came to the door, (with a club in his hand, of green oak, which seemed to have been procured for the occasion,) and called us every abusive name the German language can afford, refusing at the same time the subpoena. I gave it into the hands of a person present, who afterwards gave it to him, and rode on. When we got near Millerstown, we observed people assembling from all quarters; in some instances two men riding on one horse. This, from the conduct of Seider, led to a belief that an opposition was intended to be made to the arresting of any of the offenders against the laws of the United States in that place. We left our horses at Mr. Buskirk's, (a German clergyman near the town,) and walked in. We went first to the house of George Schaffer, one of the worst offenders. We were there informed that he had gone the day before to Philadelphia. We then went to the house of Henry Shankweiler, where we found upwards of fifty men (chiefly armed with clubs,) prepared to prevent the execution of the law. Shankweiler was shown to me; as I advanced towards him, he retreated into the midst of the crowd. I, however, arrested him; he refused to submit to the arrest; the mob swore that, before he should be taken, they would, *to a man*, fight till they died; that he should not submit; he swore he never would; he would die first. I explained to them the consequence of resisting; he swore he did not care if it cost him his life and all his property, even to the destruction of his family, he would not. Upon which, Jacob and Daniel Schaffer, brothers of the aforementioned Henry Schaffer, a young man of the name of Schwartz, who tore the cockade from Col. Balliot's hat, and many others whom I did not know, nor could find any person who would furnish me with their names, rushed on in the most violent torrent of abuse, threatening vengeance, particularly against Eyerly and Balliot, calling to each other, "strike, strike!" all desirous that some one might begin the affray. I desired Shankweiler to quiet those people, to keep them off. He desired them not to hurt the Marshal; but Eyerly and Balliot, he said, were damned rascals. I informed him and his people that those gentlemen were under my protection; that I would protect them; and showed some little resolution, which seemed to strike terror into them; upon which they gave way, and the gentlemen got out of the house. It is my opinion that if one single blow had been struck the whole of the rascals would have fallen on, and we three should have been killed. Shankweiler, however, before I left him, promised to meet me on Thursday morning at Bethlehem,

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but without a promise of submission. We went from thence to Jeremiah Trexler's; lodged there that night. Next morning I hired a constable to go with and show me the persons of Daniel Harvey, Adam Stephen, and Herman Hortman, whom I arrested, and obtained their promise to meet me on the morning after at Bethlehem. Hortman was insolent, disputed my authority, but submitted. I returned to Trexler's; was there informed that a rescue of the prisoners, as soon as I had them assembled, was intended. Mr. Eyerly, Mr. Balliot and I, returned to Bethlehem, where Judge Henry gave us the same information. I then called a *posse comitatus* of about fourteen men to my aid in support of the authority of the United States, who attended unarmed. About 11 o'clock in the forenoon of Thursday, two men came into the yard of the public inn. One had a large duck gun, and the other a rifle. After some conversation with them I disarmed and confined them, concluding that if all the rescuers came in that scattered and unmilitary manner, a good account might be given of them.

After some time, up came Shankweiler of Millerstown, with William Desh, Jacob Cline, and David Scheffer, three of Captain Jarrett's troop of horse; I asked him if he had come to surrender himself to me, and submit to the laws of the United States? He impudently answered no, and kept rather behind the horsemen. I asked him for what purpose he came? He answered, to see his partner, (meaning his accuser.) I commanded him to submit; he refused in the most positive manner. After some time a person came up, informing us that, a large body of men, horse and foot, were assembled, armed with guns, swords, and pistols, at the Lehigh bridge, in a hostile manner; on which information, I sent down John Mulhallon, Esq., Major William Burnett, Isaac Hartzell, and Christian Rhodt, two of whom were supposed to be in the confidence of the people in arms, to ask of them their object, whether it was a rescue, and to warn them of the danger of such an attempt. They went down, spoke with them, and returned with reports unfavorable, which were that a rescue was intended, that I must submit to their will, and release the prisoners, or the consequences would be such as they would not be answerable for. I absolutely refused, and showed them the writs. They then offered to give bail to me to attend the court. I informed them that I was an executive officer only, that I must strictly obey the commands of the writs, that I could not take bail, desired them to go back and state this to their people in arms, that if they attempted a rescue, it would be punished severely. This they treated with contempt, and boasted of their strength. I asked them if they knew the power and strength of the United States, and the danger of resisting the authority thereof; that punishment would most assuredly follow any indignity offered to them. They went off, and returned with three of the insurgents, who came to demand a surrender of the prisoners, but who were too ignorant to inform me of the object they had in view. I informed them of my

determination; then the whole body of them marched up immediately, the horsemen and officers of the infantry with swords drawn; the infantry marched with trailed arms and surrounded the house, and seemed to be without an officer of their own corps to command them. The whole troops seemed to be under the command of a Captain Fries, of Bucks county. Fries made himself conspicuous on the occasion; he said he was the commanding officer, the oldest captain; he insisted on all the prisoners being set at large. This I refused, and continued to refuse, notwithstanding their threats, till I was informed that their resentment against Judge Henry, Colonel Balliot, and Mr. Eyerly, was great, that their lives were in danger unless an immediate surrender was made; I then informed the prisoners that I could not resist longer the force against me, but that I dared not give up the prisoners. I desired the prisoners to march with me for Philadelphia; and added, that if those people chose to rescue them, they might, and take the consequence. The prisoners of Lehigh township refused to march, declaring that, if I would suffer them to go home for the present, they would meet me at Philadelphia, on the Monday and Tuesday next following, and submit to the laws. Previous to this, I had entreated Captain Jarrett, who was present and armed with pistols, to use his influence, to prevent their doing a thing so improper and dangerous to themselves. He answered, that he could do nothing with them, till he saw all the prisoners were given up to them. He then said, Now I will take away my people, which he did in perfect order. Fries prepared his, returned and asked for Eyerman, the priest; he said he must be given up, that his people would not march without him. I assured him that he had been surrendered with the other prisoners; on which assurance he went out, found the priest, and then marched. By this time night was fast approaching. I feared these ungovernable men might do things in the dark which they would avoid in the light; therefore agreed, for the safety of the gentlemen, to give the prisoners up. Upon the whole of my observations, I am well satisfied, in my own mind, that the laws of the United States cannot be executed by the officers of the Government throughout the county of Northampton, without military aid; the people are determined to resist; they calculate largely on their strength in this State, and the aid they will have from the neighboring States, and particularly that of Virginia.

I have the honor, sir, to be your most obedient, humble servant,

WILLIAM NICHOLS.

TIMOTHY PICKERING, Esq., *Sec. of State.*

Deposition of Valentine Fuhrer.

STATE OF PENNSYLVANIA, *Northampton county, ss:*

Before me, Joseph Horsfield, Esq., one of the justices of the peace, personally appeared, Valentine Fuhrer, of Bethlehem, in the said county, toll receiver of the bridge across Lehigh, who, on his solemn affirmation, duly administered according to

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law, doth declare and say, that on the 7th day of March, about noon, a number of men, unknown to affirmant, came to the bridge gate and told affirmant, that a party of armed men would come soon; that they were much enraged; that they advised him to leave the bridge gate open, otherwise they would break through. Affirmant, on seeing the armed horse and footmen, opened the gate, and left the passage free till evening. Affirmant thinks about eighty horsemen, some armed and some unarmed, passed over the bridge; and about eighty footmen, all armed either with guns or clubs, also passed across; that after all the horse and foot had passed the bridge, Mr. Henry Jarrett also crossed. In about four or five hours all the horse and foot returned, without paying any toll, except Mr. Henry Jarrett, who offered to pay for himself and the red coats, which were about ten or twelve horsemen, and paid three quarters of a dollar to affirmant; and further he saith not.

VALENTINE FUHRER.

Affirmed before me, on the 9th March, 1799.

JOSEPH HORSFIELD.

Deposition of Jacob Eyerly and Stephen Balliot.

PENNSYLVANIA, *Northampton county, ss.*

Before the subscriber, one of the Judges of the Court of Common Pleas, in and for said county, on the 8th day of March, A. D., 1799, personally came Jacob Eyerly, Esq., one of the commissioners of the direct tax, and Stephen Balliot, Esq., collector of the revenue, &c.; the said Jacob Eyerly having made solemn affirmation according to law, and the said Stephen Balliot having made solemn oath according to law, do depose, declare, and say, that they set out from Bethlehem on the 5th instant, in company with Colonel William Nichols, Marshal of the United States for the district of Pennsylvania, who intended to serve several subpoenas and warrants issued by the Judge of the District Court; that the Marshal, upon the road to Millerstown, served a subpoena upon a certain George Seider, who, when he was called upon, came to the door with a club, and called the Marshal and these deponents highway robbers, thieves, rascals, and scoundrels, and spoke other very abusive language, and would not receive the copy of the subpoena; that the Marshal handed the copy to a certain Daniel Schwartz, who was present with the said Seider; that we rode on from there to Millerstown, where the Marshal and these deponents entered the house of Henry Shankweiler to serve a warrant upon him; here we found at least fifty men collected in his bar-room, among others the abovenamed George Seider, with a club; that, upon the arrestation of said Shankweiler, Jacob Shaeffer and David Shaeffer, with others whom the deponents do not know, came in the most violent and threatening manner close up to the deponents and the Marshal, and in a most violent manner threatened to beat and otherwise did abuse the deponents, and declared, that if the Marshal dared to take off said Shankweiler, they would fight to the last. And further, that said Shankweiler did declare he would not submit;

but, upon the Marshal's representing to him the consequences, he said whatever Jarrett (meaning Henry Jarrett) did he would do; that the Marshal endeavored to get a man from the neighborhood who should know the persons so collected, but could procure nobody else to accompany him; that the people of the neighborhood consider themselves in imminent danger of their lives by appearing in favor of the Government; that previous to the return of the deponents with the Marshal to Bethlehem, they had received information which induced them to believe there would be some attempts be made to rescue the prisoners either at Bethlehem or on the road.

That yesterday, the 7th of March, the Marshal having collected about eighteen of the prisoners in a quiet and peaceable manner, at the house of Abraham Levering, tavern keeper, in the town of Bethlehem, during the morning of said day, a number of men, partly horsemen and foot, collected at the said house; the first few that came within reach were disarmed, but the prisoners who had been arrested in and about Millerstown, in Macungy township came up to the said house in company with a number of horsemen, armed with pistols and swords; that, in a short time after, a number of other horsemen, well armed, partly in uniform, came up; about half an hour after came up also to the said house two parties of men on foot, well armed; upon the whole, we suppose to the amount of about or between eighty and one hundred; that there were various and numerous threats made that if the prisoners were not released they would proceed to violence. And further, that your deponents are fully assured that the laws of the United States cannot be executed under the present circumstances, as it is every day becoming more and more dangerous throughout all that part of the county of Northampton called Macungy, and Upper Milford, and several other places. And further saith not.

JACOB EYERLY,

STEPHEN BALLIOT.

Affirmed by the said Jacob Eyerly, and sworn by the said Stephen Balliot, and subscribed before me.

WILLIAM HENRY.

By the President of the United States of America.

A PROCLAMATION.

Whereas, combinations to defeat the execution of the laws for the valuation of lands and dwelling-houses, within the United States, have existed in the counties of Northampton, Montgomery and Bucks, in the State of Pennsylvania, and have proceeded in a manner subversive of the just authority of the Government, by misrepresentations, to render the laws odious, by deterring the public officers of the United States to forbear the execution of their functions, and by openly threatening their lives: And whereas, the endeavors of the well-affected citizens, as well as of the Executive officers, to conciliate a compliance with those laws, have failed of success; and certain persons in the county of Northampton aforesaid have been hardy enough

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to perpetrate certain acts, which I am advised amount to treason, being overt acts of levying war against the United States, the said persons exceeding one hundred in number, and armed and arrayed in a warlike manner, having, on the 7th day of this present month of March, proceeded to the house of Abraham Levering, in the town of Bethlehem, and there compelled William Nichols, Marshal of the United States in and for the district of Pennsylvania, to desist from the execution of certain legal process in his hands to be executed, and having compelled him to discharge and set at liberty certain persons whom he had arrested by virtue of criminal process, duly issued for offences against the United States, and having impeded and prevented the commissioner and the assessors, appointed in conformity with the laws aforesaid, in the county of Northampton aforesaid, by threats and personal injury, from executing the said laws; avowing, as the motives of these illegal and treasonable proceedings, an intention to prevent, by force of arms, the execution of the said laws, and to withstand, by open violence, the lawful authority of the Government of the United States: And whereas, by the Constitution and laws of the United States, I am authorized, whenever the laws of the United States shall be opposed, or the execution thereof obstructed in any State, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals, to call forth military force to suppress such combinations, and to cause the laws to be duly executed: And whereas, it is, in my judgment, necessary to call forth military force, in order to suppress the combinations aforesaid, and to cause the laws aforesaid to be duly executed; and I have accordingly determined so to do, under the solemn conviction that the essential interests of the United States demand it: Wherefore, I, John Adams, President of the United States, do hereby command all persons, being insurgents as aforesaid, and all others whom it may concern, on or before Monday next, being the 18th day of this present month, to disperse and retire peaceably to their respective abodes; and I do moreover warn all persons whomsoever against aiding, abetting, or comforting the perpetrators of the aforesaid treasonable acts; and I do require all officers and others, good and faithful citizens, according to their respective duties and the laws of the land, to exert their utmost endeavors to prevent and suppress such dangerous and unlawful proceedings.

In testimony whereof, I have caused the seal of the United States of America to be affixed [L. s.] to these presents, and signed the same with my hand.

Done at the city of Philadelphia, the 12th day of March, in the year of our Lord 1799, and of the independence of the United States of America the twenty-third.

JOHN ADAMS.

By the President:

TIMOTHY PICKERING,
Secretary of State.

Letter from the Secretary of War to the Governor of Pennsylvania.

WAR DEPARTMENT, *March 20, 1799.*

SIR: To suppress the insurrection now existing in the counties of Northampton, Bucks, and Montgomery, in the State of Pennsylvania, in opposition to the laws of the United States, the President has thought it necessary to employ a military force, to be composed, in part, of such of the militia of Pennsylvania, whose situation and state of preparation will enable them to march with promptitude. The corps of militia first desired on this occasion are the troops of cavalry belonging to this city, and one troop from each of the counties of Philadelphia, Bucks, Chester, Montgomery, and Lancaster. These troops I have the honor to request your Excellency will order to hold themselves in readiness to march on or before the 28th instant, under the command of Brigadier General McPherson.

I have the honor to be, with great respect, sir, your obedient servant,

JAMES MCHENRY.

His Excellency Governor MIFFLIN.

Instructions to General McPherson.

WAR DEPARTMENT, *March 21, 1799.*

SIR: In pursuance of the President's proclamation, bearing date 12th day of this month, it has become indispensable to determine upon and put in motion the military force proper to be employed for suppressing the insurrection in the counties of Northampton, Montgomery, and Bucks, in this State.

You will therefore be pleased to form a detachment from the volunteers, who have associated in the State of Pennsylvania, and been accepted by the President, as a part of the provisional army, to consist of the two volunteer companies of cavalry of the city of Philadelphia, to which you will add two more of the troops of militia cavalry of the same city, now under orders to hold themselves in readiness to march, so as to compose a body of two hundred and forty horse, including non-commissioned officers, and proceed with the detachment, without delay, to the theatre of insurrection.

You will forthwith make returns of such articles as may yet be wanted for this detachment, that the necessary orders may be given for their delivery.

A paymaster for the volunteers and militia that may be employed ought to be appointed. You will please to name one, who will be advanced a sum, on account, equal to one month's pay, for the companies now called into service.

You will cause correct muster and pay-rolls for the volunteers and militia called into actual service, in the usual forms, to be made out, with the view of rendering the settlement of the accounts for their services prompt and easy.

The quartermaster of the detachment, who will be appointed by the Quartermaster General, will receive in advance from the Quartermaster General a sum on account, which may be conceived adequate to the expenditure that may be incurred in this particular department.

Insurrection in Pennsylvania.

Rations will be furnished by the contractors for supplying the same to the military within the State of Pennsylvania. It is presumed he will employ a proper agent or agents, and execute your orders with precision respecting provisions.

Doctor Joseph Strong will attend the expedition, in quality of surgeon, furnished with a competent supply of medicines and instruments.

As one object of the expedition is to assist the Marshal of the District to make prisoners of, and hold amenable to justice, persons who have either resisted the service of legal process, or been concerned in rescuing from him those who were in his lawful custody, or for whom he may have process on other charges, and to conduct the prisoners to Philadelphia, you will perceive the propriety of applying your cavalry, in the manner best calculated, consistently with the safety of the detachment, to secure as many of the offenders at the same moment as possible.

You will inform the Quartermaster General and the contractor of the precise time you design to put the detachment in motion, and make them acquainted with whatever it may be necessary for them to know, previously, in order to insure, as much as possible, no failure in your operations, from the want of means in either of their departments.

The Marshal of the District of Pennsylvania will move with you, and give you the names of the offenders, their descriptions, and respective places of abode, who are to be made prisoners under criminal process. You will be particularly careful that the most criminal, or the ringleaders, be attended to, and in preference secured, and to prevent, by the most pointed orders, any insult to the inhabitants, or unnecessary rigor towards the prisoners taken.

It is left entirely to your discretion to determine upon your place or places of rendezvous, which should be such as are best calculated to enable the troops that may be stationary to defend themselves in case of attack, and also to aid as effectually as possible your parties of horse in their transit to and from their points of departure.

You will have observed that is designed to give to the volunteer and militia cavalry selected by you a principal agency in suppressing the existing combinations against the laws, and of quelling an insurrection and rebellion against the Government and rightful authority of their country, at a time when its sovereignty and liberties are threatened by a powerful, implacable, and insidious nation, who have been accustomed to divide and conquer other nations. It is not doubted, therefore, but that they will exhibit a useful example upon this service of military promptitude, spirit, vigilance, discipline, and obedience of orders.

To be prepared for adverse contingencies, it will be proper that you continue the orders for holding themselves in readiness to march, at the shortest notice, to the volunteer companies and militia not immediately called into actual service.

To cover the active operations of the volunteer and militia cavalry, a company of infantry, under Captain Shoemaker, and a company of artillerists

under Captain Irwin, from Carlisle, Pennsylvania, have been ordered to march and rendezvous at Reading; and a company of artillerists at Fort Mifflin, intended to rendezvous at the same place, is under orders to march at the shortest notice. Two companies of artillerists, from New York, and a party of infantry, recruits under Lieutenant Boote, supposed about thirty, from New Brunswick, New Jersey, have been ordered to march to Newtown, Pennsylvania: these latter troops are on the establishment of the United States; expected to arrive at their first places of rendezvous on or about the 23d instant, and subject to your orders, to be stationed where their presence can produce the best effects, and employed in case circumstances should require their actual co-operation with the volunteers and militia.

If rebellion should acquire a strength demanding further force, you are, using a sound discretion, and keeping economy in view, fully authorized by the President to call into actual service the whole or any part of the volunteer and militia companies that have been ordered to be held in readiness in the States of Pennsylvania and New Jersey.

It is expected that the detachment of volunteers and militia will be pushed forward, as rapidly as the season and roads will permit to the point or points you may think proper to occupy with the regular troops, and to which your capturing parties may be instructed to conduct their prisoners.

You are earnestly requested to employ every moment of your time in accomplishing the objects of your command, conformably to these orders, and to keep constantly in mind that, if the offenders against the laws can be suddenly and unexpectedly secured, before they have time to prepare general resistance, it may extinguish the insurrection, without further expense to the United States, or call upon the patriotism or fortitude of our fellow citizens. That you may have sufficient assistance in your own family to meet the eventual business the service may impose upon you, it is permitted to you to appoint a volunteer aid-de-camp, (should you conceive one to be necessary,) in addition to the aid allowed you by law, and to draw for him and his servant rations and forage.

You will be able to judge accurately upon the spot when opposition to the laws, and the spirit of revolt and insurrection, are so far suppressed in the disaffected counties as to admit the whole or part of the volunteers and militia to return to their homes and civil occupations. This will be ascertained when the inhabitants shall quietly permit the commissioners and assessors of the tax on land and houses to perform their respective duties according to law. Until this shall be the state of those counties, it will be proper to continue the military force there in convenient positions to produce a perfect submission to the authority of the United States.

I have the honor to be, with great respect, sir, your most obedient, humble servant,

JAMES MCHENRY.

WM. MACPHERSON, Esq.,
Brigadier General.

Oration on the Death of General Washington.

ORATION ON THE DEATH OF GENERAL WASHINGTON.

[Communicated to the House of Reps., Dec. 30, 1799.]

PHILADELPHIA, Dec. 27, 1799.

DEAR SIR: The enclosed resolutions, which unanimously passed the House of Representatives to-day, will make known to you how highly they have been gratified with the manner in which you have performed the service assigned to you, in preparing and delivering a funeral oration on the death of General WASHINGTON. That our constituents may participate in the gratification we have received, from your having so well expressed those sentiments of respect for the character, of gratitude for the services, and of grief for the death, of that illustrious personage, I flatter myself you will not hesitate to comply with the request of the House, by furnishing a copy of your oration, to be taken for publication.

Allow me, while performing this pleasing task of official duty, in communicating an act of the Representatives of the people, so just to you and so honorable to themselves, to embrace the opportunity to declare that I am, personally, with great esteem and sincere regard, dear sir, your friend and obedient servant,

THEODORE SEDGWICK.

Hon. Major Gen. LEE.

FRANKLIN COURT, Dec. 28, 1799.

DEAR SIR: I owe to the goodness of the House of Representatives the honor which their resolutions confer on my humble efforts to execute their wish.

I can never disobey their will, and therefore will furnish a copy of the oration delivered on the late afflicting occasion, much as I had flattered myself with a different disposition of it.

Sincerely reciprocating the personal considerations with which you honor me, I am, very respectfully, sir, your friend and obedient servant,

HENRY LEE.

The SPEAKER of the House of Reps.

In obedience to your* will, I rise, your humble organ, with the hope of executing a part of the system of public mourning which you have been pleased to adopt, commemorative of the death of the most illustrious and most beloved personage this country has ever produced; and which, while it transmits to posterity your sense of the awful event, faintly represents your knowledge of the consummate excellence you so cordially honor.

Desperate, indeed, is any attempt on earth to meet correspondently this dispensation of Heaven; for, while, with pious resignation, we submit to the will of an all-gracious Providence, we can never cease lamenting in our finite view of Omnipotent Wisdom, the heart-rending privation for which our nation weeps. When the civilized world shakes to its centre; when every moment gives

birth to strange and momentous changes; when our peaceful quarter of the globe, exempt as it happily has been from any share in the slaughter of the human race, may yet be compelled to abandon her pacific policy, and to risk the doleful casualties of war, what limit is there to the extent of our loss? None within the reach of my words to express; none which your feelings will not disavow.

The founder of our federate Republic, our bulwark in war, our guide in peace, is no more. Oh that this was but questionable! Hope, the comforter of the wretched, would pour into our agonized hearts its balmy dew. But, alas! there is no hope for us; our WASHINGTON is removed forever. Possessing the stoutest frame, and purest mind, he had passed nearly to his sixty-eighth year, in the enjoyment of high health; when, habituated by his care of us to neglect himself, a slight cold, disregarded, became inconvenient on Friday, oppressive on Saturday, and defying every medical interposition, before the morning of Sunday put an end to the best of men. An end did I say? his fame survives! bounded only by the limits of earth, and by the extent of the human mind. He survives in our hearts, in the growing knowledge of our children, in the affection of the good throughout the world; and when our monuments shall be done away, when nations now existing shall be no more, when even our young and far-spreading empire shall have perished, still will our WASHINGTON's glory unfaded shine, and die not, until love of virtue cease on earth, or earth itself sink into chaos.

How, my fellow-citizens, shall I single to your grateful hearts his pre-eminent worth? Where shall I begin in opening to your view a character throughout sublime? Shall I speak of his warlike achievements, all springing in obedience to his country's will—all directed to his country's good?

Will you go with me to the banks of the Monongahela, to see your youthful WASHINGTON, supporting, in the dismal hour of Indian victory, the ill-fated Braddock, and saving, by his judgment and by his valor, the remains of a defeated army, pressed by the conquering savage foe? Or, when oppressed America, nobly resolving to risk her all in defence of her violated rights, he was elevated, by the unanimous voice of Congress, to the command of her armies? Will you follow him to the high grounds of Boston, where, to an undisciplined, courageous, and virtuous yeomanry, his presence gave the stability of system, and infused the invincibility of love of country? Or shall I carry you to the painful scenes of Long Island, York Island, and New Jersey; when, combatting superior and gallant armies, aided by powerful fleets, and led by chiefs high in the roll of fame, he stood the bulwark of our safety; undismayed by disaster; unchanged by change of fortune? Or will you view him in the precarious fields of Trenton, where deep gloom, unnerving every arm, reigned triumphant through our thinned, worn down, unaided ranks, himself unmoved? Dreadful was the night—it was about this time of

* The two Houses of Congress.

Oration on the Death of General Washington.

Winter; the storm raged; the Delaware rolling furiously with floating ice, forbade the approach of man. WASHINGTON, self-collected, viewed the tremendous scene; his country called; unappalled by surrounding dangers, he passed to the hostile shore; he fought; he conquered. The morning sun cheered the American world. Our country rose on the event; and her dauntless Chief, pursuing his blow, completed in the lawns of Princeton what his vast soul had conceived on the shores of Delaware.

Thence to the strong ground of Morristown he led his small but gallant band; and through an eventful Winter, by the high efforts of his genius, whose matchless force was measurable only by the growth of difficulties, he held in check formidable hostile legions, conducted by a chief experienced in the art of war, and famed for his valor on the ever-memorable Heights of Abraham, where fell Wolfe, Montcalm, and since our much-lamented Montgomery, all covered with glory. In this fortunate interval, produced by his masterly conduct, our fathers, ourselves, animated by his resistless example, rallied around our country's standard, and continued to follow her beloved Chief through the various and trying scenes to which the destinies of our Union led.

Who is there that has forgotten the vales of Brandywine, the fields of Germantown, or the plains of Monmouth? Everywhere present, wants of every kind obstructing, numerous and valiant armies encountering, himself a host, he assuaged our sufferings, limited our privations, and upheld our tottering Republic. Shall I display to you the spread of the fire of his soul, by rehearsing the praises of the hero of Saratoga, and his much-loved compeer of the Carolinas? No; our WASHINGTON wears not borrowed glory. To Gates—to Green—he gave without reserve the applause due to their eminent merit; and long may the Chiefs of Saratoga and of Eutaw receive the grateful respect of a grateful people.

Moving in his own orbit, he imparted heat and light to his most distant satellites; and combining the physical and moral force of all within his sphere, with irresistible weight he took his course, commiserating folly, disdaining vice, dismaying treason, and invigorating despondency, until the auspicious hour arrived; when, united with the intrepid forces of a potent and magnanimous ally, he brought to submission the since conqueror of India; thus finishing his long career of military glory with a lustre corresponding to his great name, and in his last act of war affixing the seal of fate to our nation's birth.

To the horrid din of battle sweet peace succeeded; and our virtuous Chief, mindful only of the common good, in a moment tempting personal aggrandizement, hushed the discontents of growing sedition, and surrendering his power into the hands from which he had received it, converted his sword into a ploughshare, teaching an admiring world that to be truly great you must be truly good.

Were I to stop here, the picture would be incomplete, and the task imposed unfinished. Great

as was our WASHINGTON in war, and much as did that greatness contribute to produce the American Republic, it is not in war alone his pre-eminence stands conspicuous; his various talents, combining all the capacities of the statesman with those of the soldier, fitted him alike to guide the councils and the armies of the nation. Scarcely had he rested from his martial toils, while his invaluable parental advice was still sounding in our ears, when he, who had been our shield and our sword, was called forth to act a less splendid but a more important part.

Possessing a clear and penetrating mind, a strong and a sound judgment, calmness and temper for deliberation, with invincible firmness and perseverance in resolutions maturely formed, drawing information from all, acting from himself, with incorruptible integrity and unvarying patriotism; his own superiority and the public confidence alike marked him as the man designed by Heaven to lead in the great political as well as military events which have distinguished the era of his life.

The finger of an overruling Providence, pointing at WASHINGTON, was neither mistaken nor unobserved; when, to realize the vast hopes to which our Revolution had given birth, a change of political system became indispensable.

How novel—how grand the spectacle! independent States stretched over an immense territory, and known only by common difficulty, clinging to their Union as the rock of their safety, deciding, by frank comparison of their relative condition, to rear on that rock, under the guidance of reason, a common Government, through whose commanding protection, liberty and order, with their long train of blessings, should be safe to themselves, and the sure inheritance of their posterity.

This arduous task devolved on citizens selected by the people, from knowledge of their wisdom and confidence in their virtue. In this august assembly of sages and of patriots, WASHINGTON, of course, was found; and, as if acknowledged to be the most wise, where all were wise, with one voice he was declared their Chief. How well he merited this rare distinction, how faithful were the labors of himself and his compatriots, the work of their hands and our Union, strength and prosperity, the fruits of that work, best attest.

But to have essentially aided in presenting to his country this consummation of her hopes, neither satisfied the claims of his fellow-citizens on his talents, nor those duties which the possession of those talents imposed. Heaven had not infused into his mind such an uncommon share of its ethereal spirit to remain unemployed, nor bestowed on him his genius unaccompanied with the corresponding duty of devoting it to the common good. To have framed a Constitution, was showing only, without realizing the general happiness. This great work remained to be done, and America, steadfast in her preference, with one voice summoned her beloved WASHINGTON, unpractised as he was in the duties of civil administration, to execute this last act in the completion of the na-

Oration on the Death of General Washington.

tional felicity. Obedient to her call, he assumed the high office with that self-distrust peculiar to his innate modesty, the constant attendant of pre-eminent virtue. What was the burst of joy through our anxious land on this exhilarating event, is known to us all. The aged, the young, the brave, the fair, rivalled each other in demonstrations of their gratitude; and this high-wrought delightful scene was heightened in its effect by the singular contest between the zeal of the bestowers, and the avoidance of the receiver of the honors bestowed. Commencing his administration, what heart is not charmed with the recollection of the pure and wise principles announced by himself, as the basis of his political life. He best understood the indissoluble union between virtue and happiness, between duty and advantage, between the genuine maxims of an honest and magnanimous policy, and the solid rewards of public prosperity and individual felicity; watching with an equal and comprehensive eye over this great assemblage of communities and interests, he laid the foundation of our national policy in the unerring, immutable principles of morality, based on religion, exemplifying the pre-eminence of free Government, by all the attributes which win the affections of its citizens, or command the respect of the world:

"O fortunatos nimium, sua si bona norint!"

Leading through the complicated difficulties produced by previous obligations and conflicting interests, seconded by succeeding Houses of Congress, enlightened and patriotic, he surmounted all original obstructions, and brightened the path of our national felicity.

The Presidential term expiring, his solicitude to exchange exaltation for humility returned with a force increased with increase of age, and he had prepared his Farewell Address to his countrymen, proclaiming his intention, when the united interposition of all around him, enforced by the eventful prospects of the epoch, produced a further sacrifice of inclination to duty. The election of President followed; and WASHINGTON, by the unanimous vote of the nation, was called to resume the Chief Magistracy. What a wonderful fixture of confidence! Which attracts most our admiration—a people so correct, or a citizen combining an assemblage of talents forbidding rivalry, and stifling even envy itself? Such a nation ought to be happy; such a Chief must be forever revered.

War, long menaced by the Indian tribes, now broke out; and the terrible conflict, deluging Europe with blood, began to shed its baneful influence over our happy land. To the first, outstretching his invincible arm, under the orders of the gallant Wayne, the American eagle soared triumphant through distant forests. Peace followed victory, and the melioration of the condition of the enemy followed peace. Godlike virtue! which uplifts even the subdued savage.

To the second he opposed himself. New and delicate was the conjuncture, and great was the stake. Soon did his penetrating mind discern

and seize the only course; continuing to us all the felicity enjoyed. He issued his proclamation of neutrality. This index to his whole subsequent conduct, was sanctioned by the approbation of both Houses of Congress, and by the approving voice of the people.

To this sublime policy he inviolably adhered, unmoved by foreign intrusion, unshaken by domestic turbulence.

"Justum et tenacem propositi virum,
"Non civium ardor prava jubentium,
"Non vultus instantis tyranni
"Mente quatinus solidâ."

Maintaining his pacific system at the expense of no duty, America, faithful to herself, and unstained in her honor, continued to enjoy the delights of peace, while afflicted Europe mourns in every quarter, under the accumulated miseries of an unexampled war; miseries in which our happy country must have shared, had not our pre-eminent WASHINGTON been as firm in the council as he was brave in the field.

Pursuing steadfastly his course, he held safe the public happiness, preventing foreign war, and quelling internal discord, till the revolving period of a third election approached, when he executed his interrupted but inextinguishable desire of returning to the humble walks of private life.

The promulgation of his fixed resolution stopped the anxious wishes of an affectionate people from adding a third unanimous testimonial of their unabated confidence in the man so long enthroned in their hearts. When, before, was affection like this exhibited on earth? Turn over the records of ancient Greece; review the annals of mighty Rome; examine the volumes of modern Europe—you search in vain. America and her WASHINGTON only afford the dignified exemplification.

The illustrious personage called by the national voice in succession to the arduous office of guiding a free people, had new difficulties to encounter; the amicable effort of settling our difficulties with France, begun by WASHINGTON, and pursued by his successor, in virtue as in station, proving abortive, America took measures of self-defence. No sooner was the public mind roused by prospect of danger, than every eye was turned to the friend of all, though secluded from public view, and grey in public service; the virtuous veteran, following his plough,* received the unexpected summons with mingled emotions of indignation at the unmerited ill-treatment of his country, and of a determination once more to risk his all in her defence.

The annunciation of these feelings, in his affecting letter to the President accepting the command of the army, concludes his official conduct.

First in war—first in peace—and first in the hearts of his countrymen, he was second to none in the humble and endearing scenes of private life; pious, just, humane, temperate, and sincere;

* General WASHINGTON, though opulent, gave much of his time and attention to practical agriculture.

Mississippi Territory.

uniform, dignified, and commanding; his example was as edifying to all around him, as were the effects of that example lasting.

To his equals he was condescending, to his inferiors kind, and to the dear object of his affections exemplarily tender; correct throughout, vice shuddered in his presence, and virtue always felt his fostering hand; the purity of his private character gave effulgence to his private virtues.

His last scene comported with the whole tenor of his life. Although in extreme pain, not a sigh, not a groan escaped him; and with undisturbed serenity he closed his well-spent life. Such was the man America has lost; such was the man for whom our nation mourns.

Methinks I see his august image, and hear falling from his venerable lips these deep sinking words:

"Cease, sons of America, lamenting our separation; go on, and confirm by your wisdom the fruits of our joint councils, joint efforts, and common dangers; reverence religion; diffuse knowledge throughout your land; patronize the arts and sciences; let liberty and order be inseparable companions; control party spirit, the bane of free Governments; observe good faith to, and cultivate peace with, all nations; shut up every avenue to foreign influence; contract rather than extend national connexion; rely on yourselves only; be American in thought, word, and deed: thus will you give immortality to that Union, which was the constant object of my terrestrial labors; thus will you preserve, undisturbed, to the latest posterity, the felicity of a people to me most dear; and thus will you supply (if my happiness is now aught to you) the only vacancy in the round of pure bliss high Heaven bestows."

MISSISSIPPI TERRITORY.

[Communicated to the House of Reps., Feb. 18, 1800.]

Mr. CLAIBORNE, from the committee to whom was referred the petition of Cato West and others, styling themselves "a committee, regularly chosen by the inhabitants of the Mississippi Territory, for the purpose of petitioning for a redress of grievances," made, in part, the following report:

The petitioners state, that, from the vast interval which separates the Territory from the seat of the General Government, a knowledge of their interest and wishes being difficult to be ascertained, partial and inaccurate statements were too apt to acquire credit, and that of this stamp were the representations which have been made, in the name of the people, soliciting a Government similar to one which had been established in the Territory Northwest of the river Ohio.

That the Government which Congress had enacted for the Mississippi Territory was bad in theory and still worse in practice; the Executive, Legislative and Judicial authorities, so carefully separated and limited by the constitutions of the elder States, are here mingled together in the

hands of three or four individuals, who have but a partial interest in common with the people; and further, that the immense power thus conceded had neither been exercised with liberality nor beneficence, and that in some instances the provisions of the ordinance had been unattended to, and the Constitution of the United States violated.

To remedy these inconveniences, and to extend the fundamental principles of civil liberty, the petitioners solicit an amelioration of their present political system, and that Congress will enact that the ordinance of one thousand seven hundred and eighty-seven may immediately operate in its second grade in the *Mississippi Territory*, meaning that the people thereof may be allowed a Legislative Assembly.

Upon mature consideration of the premises, the committee are of an opinion that an amelioration of the present existing Government is dictated by justice and policy.

That the political maxim, so generally practised upon in the United States, "that the citizen should have a voice, by himself or his representative, in the framing of laws, and imposing of taxes," ought to be extended to the Mississippi Territory.

The committee find that, by the act of Congress, passed on the seventh of April, one thousand seven hundred and ninety-eight, entitled "An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a Government in the Mississippi Territory," the boundaries of the said Territory were defined, and the President of the United States authorized to establish therein a Government in all respects similar to that now exercised in the Territory Northwest of the river Ohio, excepting and excluding the last article of the ordinance made for the government thereof, by the late Congress, on the thirteenth of July, one thousand seven hundred and eighty-seven.

That the President, soon after the passage of the act aforesaid, by and with the advice and consent of the Senate of the United States, appointed a Governor, Secretary, and three Judges, for the Mississippi district, who have entered upon the duties of their respective offices, and proceeded to the organization of the Government.

That in the ordinance referred to, in the before-mentioned act of Congress, the committee find the following provisions:

"Be it ordained by the authority aforesaid, That there shall be appointed, from time to time, by Congress, a Governor, whose commission shall continue in force for the term of three years, unless sooner revoked by Congress; he shall reside in the district, and have a freehold estate therein, in one thousand acres of land, while in the exercise of his office."

"There shall be appointed, from time to time by Congress, a Secretary, whose commission shall continue in force for four years, unless sooner revoked; he shall reside in the district, and have a freehold estate therein, in five hundred acres of land, while in the exercise of his office; it shall be his duty to keep and preserve the acts and laws passed by the Legislature and the public records

Mississippi Territory.

of the district, and the proceedings of the Governor in his executive department, and transmit authentic copies of such acts and proceedings, every six months, to the Secretary of Congress. There shall also be appointed a court, to consist of three Judges, any two of whom to form a court, who shall have a common law jurisdiction, and reside in the district, and have each therein a freehold estate in five hundred acres of land, while in the exercise of their offices; and their commissions shall continue in force during good behaviour. The Governor and Judges, or a majority of them, shall adopt and publish in the district such laws of the original States, criminal and civil, as may be necessary and best suited to the circumstances of the district, and report them to Congress, from time to time; which laws shall be in force in the district, until the organization of the General Assembly therein, unless disapproved of by Congress, but afterwards the Legislature shall have authority to alter them, as they shall think fit. The Governor for the time being shall be commander-in-chief of the militia, appoint and commission all officers in the same, below the rank of general officers; all general officers shall be appointed and commissioned by Congress, previous to the organization of the General Assembly; the Governor shall appoint such magistrates and other civil officers, in each county or township, as he shall find necessary for the preservation of the peace and good order in the same; after the General Assembly shall be organized, the powers and duties of magistrates and other civil officers shall be regulated and defined by the said Assembly, but all magistrates and other civil officers not herein otherwise directed shall, during the continuance of this temporary government, be appointed by the Governor. For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district; and for the execution of process, criminal and civil, the Governor shall make proper divisions thereof; and he shall proceed from time to time, as circumstances may require, to lay out the parts of the district in which Indian titles shall have been extinguished, into counties and townships; subject, however, to such alterations as may hereafter be made by the Legislature.

"So soon as there shall be five thousand free male inhabitants of full age in the district, upon giving proof thereof to the Governor, they shall receive authority, with time and place, to elect representatives from their counties or townships, to represent them in the General Assembly, provided that for every five hundred free male inhabitants there shall be one representative, and so on progressively with the number of free male inhabitants, shall the right of representation increase, until the number of representatives shall amount to twenty-five; after which the number and proportion of representatives shall be regulated by the Legislature: *Provided*, That no person be eligible or qualified to act as a representative unless he shall have been a citizen of one of the United States three years, and be a resident in the district, or unless he shall have resided in the district three years; and, in either case, shall likewise hold in his own right, in fee sim-

ple, two hundred acres of land within the same: *Provided, also*, That a freehold in fifty acres of land in the district, having been a citizen of one of the States, and being resident in the district, or the like freehold, and two years' residence in the district, shall be necessary to qualify a man as an elector of a representative.

"The representative thus elected shall serve for the term of two years; and in case of the death of a representative, or removal from office, the Governor shall issue a writ to the county or township for which he was a member, to elect another in his stead, to serve for the residue of the term.

"The General Assembly, or Legislature, shall consist of the Governor, Legislative Council, and a House of Representatives. The Legislative Council shall consist of five members, to continue in office five years, unless sooner removed by Congress; any three of whom to be a quorum; and the members of the Council shall be nominated and appointed in the following manner, to wit: As soon as representatives shall be elected, the Governor shall appoint a time and place for them to meet together, and, when met, they shall nominate ten persons, resident in the district, and each possessed of a freehold in five hundred acres of land, and return their names to Congress, five of whom Congress shall appoint and commission to serve as aforesaid; and whenever a vacancy shall happen in the council, by death or removal from office, the House of Representatives shall nominate two persons qualified as aforesaid for each vacancy, and return their names to Congress, one of whom Congress shall appoint and commission for the residue of the term. And every five years, four months at least before the expiration of the time of service of the members of Council, the said House shall nominate ten persons, qualified as aforesaid, and return their names to Congress; five of whom Congress shall appoint and commission to serve as members of the Council five years, unless sooner removed. And the Governor, Legislative Council, and House of Representatives, shall have authority to make laws, in all cases, for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared. And all bills having passed by a majority in the House, and by a majority in the Council, shall be referred to the Governor for his assent; but no bill or Legislative act whatever shall be of any force without his assent. The Governor shall have power to convene, prorogue, and dissolve the General Assembly, when in his opinion it shall be expedient."

The committee further report, that they have not been enabled to ascertain with certainty the number of citizens residing within the limits of the Mississippi district, but there are supposed to be about six thousand free people of all descriptions; that the free male inhabitants of full age, not being sufficient in number (under the ordinance) to authorize a General Assembly, the Legislative authority (subject to certain prescribed restrictions) is at this time vested in and exercised by the Governor and Judges.

Mississippi Territory.

A Legislative Assembly organized upon the plan contemplated by the ordinance, when the number of free male inhabitants of full age amounted to five thousand, would, it is presumed, remove the principal cause of uneasiness, and be promotive of the general good.

For information as to the extent of population in the Mississippi Territory, the quality, quantity, and value of the exports, the wishes of the people for a change of government, and their supposed ability to meet the expense incident to a General Assembly, the committee beg leave to refer the House to two letters from Mr. N. Hunter hereto subjoined, (Nos. 1 and 2;) the petitioners prayed that Mr. Hunter might be accredited as their agent, and viewed as a character in whom entire confidence may be placed.

From a desire to attach the citizens of the Mississippi Territory permanently to the United States, to promote their political welfare and happiness, and to extend to them more ample security against political oppression, the committee submit the following resolutions:

1. *Resolved*, That so much of the ordinance for the government of the Territory of the United States Northwest of the river Ohio, as relates to the organization of a General Assembly therein, and prescribes the powers thereof, shall forthwith operate and be in force in the Mississippi Territory: *Provided*, That, until the number of free male inhabitants of full age, in the said Territory, shall amount to five thousand, there shall not be returned to the General Assembly more than nine representatives.

2. *Resolved*, That, until the number of free male inhabitants of full age in the Mississippi Territory shall amount to five thousand, the county of Adams shall be entitled to choose five representatives to the General Assembly, and the county of Pickering four.

3. *Resolved*, That the first election for Representatives to the General Assembly shall be on the — day of —, and that all subsequent elections shall be regulated by the Legislature.

4. *Resolved*, That it shall be the duty of the Governor of the Mississippi Territory to cause the said election to be holden on the day aforesaid, at the most convenient place in the counties aforesaid, and to nominate a proper officer or officers to preside at and conduct the same, and to return to him the names of the persons who may have been duly elected.

5. *Resolved*, That the Representatives shall be convened by the Governor on the — day of —.

6. *Resolved*, That so soon as the number of free male inhabitants, of full age, shall amount to or exceed five thousand, the number of Representatives to the General Assembly shall be determined, and the apportionment made, in the way prescribed in the ordinance.

—
No. 1.

PHILADELPHIA, Feb. 4, 1800.

DEAR SIR: In your communication of the 26th of January, you inquire—

1st. "By what authority were Cato West and others chosen a committee? if by the people, at what period, in what manner, and for what purpose?"

A meeting was held by a number of the principal inhabitants, on the 6th day of July last, in order to confer upon the unhappy situation of the country, and, if possible, to devise a remedy. The result of this meeting was a circular letter drawn up by the conference, recommending to the several districts the scheme of a committee, which was to meet, with written instructions from their constituents, in order to inform the Governor of the true situation of the country, and petition for a redress of grievances. I have a copy of the circular letter, and the letters of instructions from the several districts.

2d. You inquire "what is the aggregate number of the free inhabitants of the Mississippi Territory, what proportion are natives of the United States, and what the number of our militia?"

Our Governor has never taken a census of the people, nor has he been able to organize the militia, so that we are much at a loss with respect to our numbers; I think, however, that we cannot have less than six thousand free inhabitants, and about two thousand capable of bearing arms: our people are mostly natives of the United States; there is not, perhaps, one-tenth of any other description.

3d. You inquire "whether the emigration to the Territory is great, and whether any of the citizens have lately removed to the Spanish dominions, and, if any, what seem to have been the inducements?"

The emigration to our country is at this time extremely limited; the impossibility of procuring lands by any other way than by purchase from individuals, and the facility with which lands are acquired in the Spanish dominions, forms an insuperable bar to the increase of our population; though men of property who have lately descended the river seem rather inclined to sacrifice a part of their property in the purchase of lands whereon to settle, than to avail themselves of the easy terms offered by the Spanish Government; but the poorer classes are impelled to go below.

An alarming depopulation took place last Winter under the patronage of Doctor White; we could never learn the exact number of families, but they were sufficiently numerous to form a considerable settlement below the line of which Doctor White is commandant. A number of the inhabitants have been selling out this Summer, and preparing to remove below at the end of the year. Various circumstances may have combined in producing this dereliction, but we do not hesitate to say that the morose, arbitrary contumacy of Governor Sargent are among the primary causes.

4th. You would know "the particular culture which occupies the attention of the planter of the Mississippi Territory, what are our articles of exportation, and what the supposed quantity and value?"

Cotton is at present the staple of the Territory, and is cultivated with singular advantage to the planter. We get one quarter of a dollar per pound for clean cotton, and an active planter will

Mississippi Territory.

make from five to eight hundred pounds weight to a hand; and, as I conceive we have as many black as white inhabitants, we cannot make much less than three millions of pounds of merchantable cotton, equal to seven hundred and fifty thousand dollars.

We are able to raise, at a small expense, great quantities of pork; but the price, for three or four years' past, has not been more than three and a half dollars; consequently, little has been raised. Our soil and climate seems peculiarly adapted to the growth of indigo, as well as cotton; and the sugar-cane thrives well in the lower part of the Territory. I am, dear sir, with great esteem,
yours,

N. HUNTER,
Agent Mississippi Territory.

No. 2.

FEBRUARY 6, 1800.

DEAR SIR: I received your obliging note of the 3d instant; and while you have my sincere and hearty thanks for your vigilance and attention to the business of the Natchez, I shall make every exertion in my power to elucidate such parts of our petition and documents as may appear vague or ambiguous.

The estimate annexed to the petition of Cato West and others (mentioned in your note) is not "the amount of the tax laid on the county of Adams by a law of the Territory;" but it appears to be the sum which the Governor thought necessary to be raised in that county for the service of the last year; and it was sent by him to the first court of general quarter sessions in order to receive the sanction of that court. This would give it immediate currency, and necessarily operate in aid of his future projects of taxation.

But such a manifest prodigality of the public resources appeared upon the face of it, together with so marked an opposition to the public opinion, with regard to the place whereon the public buildings were to be erected, that it received the immediate disapprobation of the court; and I believe a similar instrument was never presented to the county of Pickering.

I would here beg leave to call your attention to the first address of the committee, to Governor Sargent, of the 26th of August. It is there stated that he had adopted and pursued improper measures; that he had given an exclusive confidence to a party; that his measures were calculated to give confidence to the insolence of faction, and to suffocate the germ of public virtue in the upright citizen. He was also told that most of the perplexities which had embarrassed him in his administration had undoubtedly flowed from this source; but anxious for a general accommodation, and animated with a hope of inspiring a system of measures capable of embracing that object, the committee was ready to admit that the Governor had been surprised into those measures by partial or designing statements. To this address, however, the Governor avoided to return an answer; for the fact is, the charges were too true to be denied, and his conduct too improper to be justified.

I must also solicit the attention of the committee of the House of Representatives to the address of Cato West and others, to the Governor and Judges, upon the subject of the laws, and the answer to that address. The committee charges the Legislature with making laws in express contradiction to the letter of the ordinance of 1787, which authorizes them only to adopt laws already made in the original States. The Governor and Judges, in their answer, confess that they have made laws which have not been derived from any one of the State codes; but they say they have been in favor of the citizen, by lessening fines and penalties. But the committee, in their reply to that answer, which concludes their correspondence, assert that the lessening of fines and penalties was not the object of their Legislative efforts; and the code of laws which, it is presumed, has by this time been transmitted to Colonel Pickering's office, will, I am fully persuaded, justify the assertion.

At the time of my departure from the Territory the discontents of the people were great indeed; the whole country was influenced by an idea that the ordinance for our government had been wantonly abused, and the Constitution of the United States as wantonly violated, at a time, and under circumstances, which required no such sacrifice.

But the Governor's appointments, civil and military, as they stand at present, have been a more abundant source of discontent than any that has arisen under his administration. All the principal officers that possessed the confidence of the people have uniformly resigned their appointments, and it will be impossible that the Governor can ever be able to organize the militia, notwithstanding his extraordinary fines, in order to force his appointments upon the people.

Can it be possible that an administration, which, from its earliest operations, has proved so repugnant to the public will, and so fatal to the happiness of society, can ever be able to restore harmony, attach public confidence, and promote the general good? The thing is impossible.

There is yet another source of uneasiness, excited by the conduct of our Governor, which I feel it a duty incumbent on me to suggest to the committee of the House of Representatives. He has heretofore been in the habit of exacting and receiving fees for passports granted to citizens travelling from the Territory to the United States, and also for tavern and marriage licenses. It is believed that his perquisites in these instances have not been inconsiderable; and if the practice were forbidden by a law of Congress, it is presumed that the burdens of the people would be somewhat lessened, and a great incentive to abuse entirely removed.

My state of health will now admit of my personal attendance on the committee of the House of Representatives, and I shall take much pleasure in making such further explanation as may be desired.

The people of the Mississippi Territory are extremely anxious for a Legislative Assembly; and there is no doubt existing, in my mind, as to the entire competency of their resources.

Division of Northwest Territory.

The power of making laws, through their immediate Representatives, in whom they have a confidence, and who have a common interest with themselves, is a privilege which cannot but be grateful to every American, and produce the best effects in that country.

I am, dear sir, with all possible esteem, your very humble servant,
N. HUNTER,

Agent Mississippi Territory.

Hon. W. C. C. CLAIBORNE,
Chairman Mississippi Committee.

[Communicated to the House of Reps., March 13, 1800.]

Mr. CLAIBORNE made the following report: The committee to whom was recommitted the report upon the petition of Cato West and others, together with certain resolutions submitted to the House on the 10th instant, proposing an abridgment of the powers granted to the Governor of the Mississippi Territory, are of opinion that it would be expedient to adopt the said resolutions, for the following reasons:

1. That from the infancy of the Mississippi settlements, and their remote situation from the seat of the Federal Government, it is advisable that the Government of the United States should possess a control over the proceedings of the Territorial Legislature, which can alone be effected through the medium of the Territorial Governor, whose responsibility, it is presumed, will prevent an improper use of any powers granted.

2. That the Territorial Government will only be temporary; and if, in the progress of the administration thereof, the system should prove defective, the necessary alterations will, no doubt, be made by Congress.

3. That the petitioners solicited *only* the benefits of the ordinance in its *second* grade, which, in the report heretofore made on the petition of Cato West and others, the House was advised immediately to extend to the Mississippi Territory; this measure the committee still think is dictated by policy and justice, and again recommend the adoption of the resolutions contained in the said report.

Resolved, That, from and after the organization of the Territorial Assembly of the Mississippi Territory, the Governor shall nominate, and, by and with the advice and consent of the Legislative Council, shall appoint all officers, both civil and military, of the Territory, whose appointments are not particularly vested in Congress by the ordinance: *Provided*, That the Governor shall have power to fill up all vacancies which may happen during the recess of the Legislative Council, by granting commissions, which shall expire at the end of their next session.

Resolved, That every bill which shall have passed the House of Representatives and the Legislative Council, shall, before it becomes a law, be presented to the Governor of the Territory; if he approves it, he shall sign it; but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at

large on their journals, and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered; and if approved by two-thirds of that House, it shall become a law. If any bill shall not be returned by the Governor within six days (Sunday excepted,) after it shall have been presented to him, the same shall be a law, in like manner, as if he had signed it, unless the General Assembly, by their adjournment, prevent its return; in which case, it shall not be a law.

Resolved, That every order, resolution, or vote, to which the concurrence of the Legislative Council and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the Governor of the Territory, and, before the same shall take effect, shall be approved by him; or, being disapproved by him, shall be re-passed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

Resolved, That the General Assembly meet at least once in every year, and such meeting shall be on the — day of — unless they shall by law appoint a different day; *Provided*, That the Governor shall have power, on extraordinary occasions, to convene both Houses of the General Assembly, or either of them.

Resolved, That neither House, during the session of the General Assembly, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

DIVISION OF NORTHWEST TERRITORY.

[Communicated to the House of Reps., March 3, 1800.]

The committee to whom it was referred to consider and report whether any, and, if any, what, alteration is necessary in the judiciary establishment of the Territory Northwest of the Ohio, and who were directed to report their opinion of the expediency of dividing said Territory into two distinct and separate governments, do, in obedience to such direction, make the following report:

That parts of said Territory are subject to several serious inconveniences, which require redress from the General Government; most of the evils which they at present experience are, in the opinion of this committee, to be imputed to the very great extent of country at present comprised under their imperfect government. The Territory Northwest of the Ohio, from southeast to northwest, fifteen hundred miles, and the actual distance of travelling from the places of holding courts the most remote from each other, is thirteen hundred miles, and in a country so sparsely peopled, and so little reclaimed from its native wildness, this distance alone seems to present barriers almost insuperable against the exercise of the functions of government, which always presupposes a knowledge of the condition of the sev-

Naturalization—Arms and Ammunition.

eral parts and the practicability of seasonable communication among the several organs.

In the three western counties there has been but one court having cognizance of crimes in five years; and the immunity which offenders experience attracts, as to an asylum, the most vile and abandoned criminals, and at the same time deters useful and virtuous persons from making settlements in such society. The extreme necessity of judiciary attention and assistance is experienced in civil as well as in criminal cases. The supplying to vacant places such necessary officers as may be wanted, such as clerks, recorders, and others of like kind, is, from the impossibility of correct notice and information, utterly neglected. This Territory is exposed, as a frontier, to foreign nations, whose agents can find sufficient interest in exciting or fomenting insurrection or discontent, as thereby they can more easily divert a valuable trade in furs from the United States, and also have a part thereof on which they border, which feels so little the cherishing hand of their proper Government, or so little dread of its energy, as to render their attachment perfectly uncertain and ambiguous. The committee would further suggest that the law of the 3d of March, 1791, granting land to certain persons in the western part of said Territory, and directing the laying out of the same, remains inexecuted; that great discontent, in consequence of such neglect, is excited in those who were interested in the provision of said law, and which require the immediate attention of this Legislature. To administer a remedy to these evils, it occurs to this committee that it is expedient that a division of said Territory into two distinct and separate governments should be made; and that such division be made, by a line beginning at the mouth of the Great Miami river, running directly north, until it intersects the boundary between the United States and Canada.

In which case it is conceived that the western part may be permitted to go into the same stage of government as is now in use in said Territory, as the same is supposed to contain at the present time fifteen thousand inhabitants.

Your committee, therefore, recommend to the House the adoption of the following resolution, viz:

Resolved, That the Territory Northwest of the river Ohio be divided into two distinct and separate governments, by a line beginning at the mouth of the Great Miami river, and running through a north course, until it intersects the boundary line between the United States and Canada.

NATURALIZATION.

[Communicated to the House of Reps., March 14, 1800.]

Mr. GRISWOLD, from the committee to whom was referred the petition of sundry aliens residing at Mount Pleasant, in the State of New York, made the following report:

That these petitioners state, that they came into

the United States before the passing of the law of June, 1798, respecting the naturalization of aliens, and might have made the declarations required by the law of January, 1795, and brought themselves within the proviso of the law first mentioned, and secured the right of naturalization after a residence of five years within the United States; but having omitted to make the declaration required, they are obliged to reside fourteen years within the United States before they can become citizens thereof. They request that the Legislature will pass an act which shall secure to them the same rights which they would have received had they made the declaration required by the law of January, 1795.

The committee can see nothing in this case which can warrant a deviation from the general rule.

They believe the law of June, 1798, to be founded on fair and just principles, and that a probation of fourteen years is not generally more than sufficient to conciliate the feelings of aliens to the manners, laws, and Government of a country into which they remove as strangers; and that the attachment which every honest mind feels to the country which gave him birth, and in which he has formed his early attachments, will not, probably, in the short space of five years, be so far obliterated as to make it safe or prudent for this Government to repose that confidence in him which it must place in its own citizens. The committee are therefore of opinion that the prayer of this petition ought not to be granted.

ARMS AND AMMUNITION.

[Communicated to the House of Reps., March 25, 1800.]

Mr. S. SMITH, from the committee appointed to inquire into the expediency of authorizing the Secretary of the Treasury to remit any forfeitures which shall occur, or may have occurred, under the law of the United States prohibiting the exportation of arms and ammunition, on the same principles on which the Secretary is authorized to remit forfeitures incurred under the revenue laws, made the following report:

That the power heretofore vested in the Secretary of the Treasury to mitigate or remit fines, forfeitures, and penalties, incurred under the revenue laws of the United States, was, by the express tenor thereof, limited to objects of a *fiscal* nature only, the management and superintendence of which were committed to that Department of which he is the head.

That the act of the United States prohibiting, for a limited time, the exportation of arms and ammunition, though in that act it is declared to be the duty of the custom-house officers, and of all persons employed in the collection of the revenue, to attend to the execution thereof; and though all forfeitures and penalties incurred under the said act, and not otherwise directed to be prosecuted and recovered, were to be sued for, prosecuted, adjudged, and distributed, in like manner as is provided in the act entitled "An act to provide more effectually

Breach of Privilege.

for the collection of the duties imposed by law on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships and vessels," was yet essentially a political, and not a fiscal measure and regulation.

That the object contemplated by said act was of great importance, both as it related to the supplies of arms and ammunition to the United States, and as it related to the deprivation of similar supplies to those who practised hostilities against the United States.

That the power of remitting fines, forfeitures, and penalties, incurred under the said act, seems to be involved in the general "power of granting pardons for offences against the United States," vested by the Constitution in the President of the United States, to whom alone, according to the nature of our Government, it must pertain to judge of the extent of the mischiefs flowing from the violations of such political measures and regulations, and how far considerations for the remission of fines, forfeitures, and penalties incurred by such violations may be listened to consistently with the public safety in relation to that power. If cases of unintentional violation have occurred, the inconvenience of making special application to the Executive (where, upon due representation, it is not to be doubted but that every attention would at all times be paid which reason and propriety could require) cannot justify a departure from the ordinary course to be observed on similar occasions.

Your committee are therefore of opinion that it is inexpedient "to authorize the Secretary of the Treasury to remit any forfeitures which shall occur, or may have occurred, under the law of the United States prohibiting the exportation of arms and ammunition, on the same principles on which the Secretary is authorized to remit forfeitures incurred under the revenue laws."

BREACH OF PRIVILEGES.

[Communicated to the Senate, May 10th, 1800.]

To the Senate of the United States: The remonstrance and petition of the undersigned, citizens of the Republic of America, resident in the city and county of Philadelphia, respectfully sheweth:

That we, the undersigned citizens of the American Republic, deeply impressed by the proceedings now pending before the Senate, on the subject of privileges, in the case of William Duane, are anxious to call the attention of this honorable House to what they deem the real and inevitable tendency of those proceedings.

We are fully persuaded that the surest safeguard of the rights and liberties of the people is the freedom of the press; and friends as we are to a republican Government, we cannot view, without strong emotions of surprise and regret, the doctrines and practices of the privileged bodies of Europe about to be adopted in this free country against that sacred bulwark of republican liberty.

Relying on the Constitution, we *had* thought that no law could be made by Congress abridging the freedom of the press. But we find, by the proceedings of the Senate, that the privileges of one House may effect what the Constitution has forbidden to the three branches of our Legislature united.

We *had* thought that the Constitution had secured to the citizens of the United States the right of a trial by jury; but the proceedings of the Senate have convinced us that we are liable to be tried and punished for new and unknown offences, without recourse to that Constitutional tribunal.

We have long viewed with silent horror the baneful progress of the Sedition law; but patiently submitted to evils we could not but feel, in hopes that the *juries* of our country might palliate, if not cure them; but with unfeigned sorrow and surprise we observe, in the proceedings of the Senate, another sedition law rising up to appal us; a sedition law that defies the counteraction of the laws of our land or the juries of our country.

We *had* thought that the Constitution provided against the dangerous intermixture of judicial, legislative, and executive authorities; but the proceedings of the Senate have shown us that the Constitution has not yet sufficiently guarded this most important principle, which the doctrine of privilege is so well calculated to destroy.

We *had* thought that the three branches of our Legislature were unitedly, but not severally, competent to the enactment of those laws which bind the persons and properties of the citizens; but we now find that penal ordinances may be enacted and enforced by the Senate alone! and we contemplate a speedy and alarming extension of our criminal code, if the present example should unhappily be pursued by similar claims of Representative privilege.

We *had* thought that the rights and authorities of the respective branches of our Federal Government had been expressly defined by the Federal Constitution, and that the Constitution itself was drawn up and sanctioned by the public voice for this *express* purpose; but we now see that rights may be claimed, and privileges assumed, which we seek for in vain among the declarations and provisions of that supreme law of our land.

We *had* thought that the Constitution had provided that, in every criminal case, an accused person should be confronted with his accusers, have process for his witnesses, and be *fully* heard by himself or counsel in his defence; but the proceedings in question have convinced us that these rights are very imperfectly secured, while an accusing Senate can dictate to a defendant the defence on which he must rely, and arbitrarily confine him to the weakest part of it.

We *had* thought that the plain and acknowledged principle of natural justice would have prevented the accusers from being also the judges, the jury, and the punishers; but the proceedings of the Senate have satisfied us that these inconsistent characters *may* be mingled, and this plain and acknowledged principle of natural justice be completely forgotten or boldly renounced.

City of Washington.

We dread the introduction of rights unlimited, and power unbounded, whether under the name of privilege, or prerogative, or implied authorities, or constructive powers; and we speak with solemn and profound regret that the late proceedings of the Senate have strongly excited in us this dread.

Our hearts are full upon this subject; we could accumulate our reasons of apprehension from these proceedings far beyond the common bounds of a petition and remonstrance; but we forbear. If the objections we have already assigned are unfelt and unnoticed, we must patiently contemplate the gloomy prospect before us, and calmly wait the approaching period when we shall no longer boast of being citizens of the American Republic.

We reverence the constituted authorities of our country too much to dictate to them the line of their duty, or to reflect improperly on their conduct, or to occupy unnecessarily their time. But on great public occasions, when our liberties are essentially involved, we *will* practice and maintain our acknowledged right to petition and remonstrate for redress of grievances; and therefore we do, with sincere deference for the honorable body we now address, but at the same time anxiously impressed with the danger of the present proceedings, respectfully call upon the Senate to reconsider the resolutions by them adopted on the subject of privilege, in the case of William Duane.

CITY OF WASHINGTON.

[Communicated to Congress, January 30, 1801.]

Gentlemen of the Senate, and

Gentlemen of the House of Representatives :

I transmit to Congress, for their consideration, a letter from William Thornton, Alexander White, and William Cranch, Esquires, Commissioners of the City of Washington; with a representation of the affairs of the city, made by them to the President of the United States, dated January 28, 1801, accompanied with a series of documents marked from A to H, inclusively.

JOHN ADAMS.

UNITED STATES, *January 30, 1801.*

COMMISSIONERS' OFFICE, *Jan. 28, 1801.*

SIR: We do ourselves the honor to present to you a state of the business under our care, and of the public property belonging to the Federal seat, with an estimate of its value, founded, not on mere supposition, but on the average of former sales.

This report would have been made at an earlier day, had it not been delayed by the unfortunate death of Mr. Scott.

We have the honor to be, with sentiments of the highest respect, sir, your most obedient servants,

WILLIAM THORNTON,
ALEXANDER WHITE,
W. CRANCH.

The President of the United States.

To the President of the United States:

The Commissioners appointed by virtue of the act of Congress entitled "An act for establishing the temporary and permanent seat of the Government of the United States," respectfully represent :

That the business committed to their charge having so far proceeded as to enable the Government to remove to its permanent seat, they have judged it expedient to lay before the President such a statement as will enable him to determine on the measures proper to be pursued in future.

By the act of Congress abovementioned, the Commissioners appointed in the manner thereby prescribed, or any two of them, were authorized to purchase or accept such quantity of land on the eastern side of the river Potomac, within the District, in the said act mentioned, as the President should deem proper for the use of the United States; and, according to such plans as the President should approve, prior to the first Monday in December, 1800, provide suitable buildings for the accommodation of Congress, and of the President, and of the public officers of the Government of the United States. That the President, in compliance with the act abovementioned, and of an act to amend the same, passed at Philadelphia, on the 3d of March, 1791, did, by his proclamation, dated 30th of the same month, locate a district within the limits prescribed by the abovementioned acts, and which has now become the permanent seat of the Government of the United States. That the President, agreeably to the abovementioned acts, appointed, and by supplying vacancies which have happened by resignation and death, has kept in appointment, three Commissioners, for the purposes in the said acts declared. That the proprietors of the lands on which the City of Washington is laid out, by their several deeds, dated in or about the month of June, 1791, conveyed the said lands to Thomas Beall, of George, and John M. Gantt, and the survivor of them, and the heirs of such survivor, in trust, to be laid out in a Federal city, with such streets, squares, parcels, and lots, as the President of the United States for the time being should approve; and that the said Thomas Beall, of George, and John M. Gantt, or the survivor of them, or the heirs of such survivor, should convey to the Commissioners, for the time being, and their successors, for the use of the United States, forever, all the streets, and such of the said squares, parcels, and lots, as the President should deem proper for the use of the United States, forever; and that as to the residue of the lots, into which the said lands should be laid off, that a fair and equal division should be made of them in the manner in the said deeds of trust specified, and that the part assigned to the public should be sold at such times and in such manner, and on such terms and conditions, as the President of the United States for the time being should direct; and that the said trustees, or the survivors of them, or the heirs of such survivors, should, on the order of the President, convey all the said lots, so sold and ordered to be conveyed, to the respective purchasers, in fee simple,

City of Washington.

according to the terms and conditions of such purchases; and the produce of the sales of the said lots, when sold as aforesaid, should in the first place be applied to the payment in money to the original proprietors for all the parts of their lands which should be laid off in lots, squares, or parcels, and appropriated to the use of the United States, at the rate of £25 per acre, not accounting streets any part thereof; and the surplus, whether in money or securities of any kind, should be paid, assigned, transferred, and delivered over to the President for the time being, as a grant of money to be applied to the purposes mentioned in the aforesaid act. In which deeds of trust, it is further provided, that the said Trustees should at any time, at the request of the President of the United States, convey all or any of the said lands, which shall not then have been conveyed in execution of the trusts aforesaid, to such person or persons as he shall appoint, in fee simple, subject to the trusts then remaining to be executed, and to the end that the same may be perfected, (A.) A very valuable property being thus placed at the disposal of the President, he pursued those measures which appeared most conducive to the great objects committed to his charge. He directed public sales of the property, and authorized, by a writing under his hand, dated 29th September, 1792, the Commissioners, or any two of them, to sell, or agree for the sale of any lot or lots in the said city at private sale, for such price and on such terms as they should think proper, (B.) But no sales took place deserving attention, until the 23d of December, 1793, when a contract was made with Robert Morris and James Greenleaf, for the sale of six thousand lots, averaging five thousand two hundred and sixty-five square feet each, at the rate of eighty dollars per lot, payable in several equal annual instalments, without interest, commencing the 1st of May, 1794, and with condition of building twenty brick houses annually, two stories high, and covering twelve hundred square feet each; and with further condition that they should not sell any lots previous to the 1st of January, 1796, but on condition of erecting on every third lot one such house within four years from the time of sale, (C.) This contract was afterwards modified by an agreement of the 24th of April, 1794, by which the payment of 80,000 dollars, and the erecting the first-mentioned houses, should rest on the joint bond of the said Morris and Greenleaf, and of John Nicholson; and that one thousand lots should be conveyed to the said Morris and Greenleaf, (D.) which was accordingly done. It is proper to observe, that on the day on which the first-mentioned contract was executed, the Assembly of Maryland passed a law enacting, "that on all sales of lots in the said city, by the said Commissioners, or any two of them, under terms or conditions of payment being made therefor, at any day or days after such contract entered into, if any sum of the purchase money or interest shall not be paid for the space of thirty days after the same ought to be paid, the said Commissioners, or any two of them, may sell the same lots at public vendue, in the City of

Washington, at any time after sixty days' notice of such sale, in some of the public newspapers of Georgetown and Baltimore town, and retain in their hands sufficient of the money produced by such new sale, to satisfy all principal and interest due on the first contract, together with the expenses of advertisement and sale; and the original purchaser, or his assigns, shall be entitled to receive from the said Commissioners, at their treasury, on demand, the balance of the money which may have been actually received by them, or under their order, on the said second sale; and all lots so sold shall be freed and acquitted of all claim, legal, and equitable, of the first purchaser, his heirs and assigns."

Notwithstanding the favorable prospect which this transaction for a time afforded, the scene soon changed. The purchasers not only failed to pay the instalment which became due in May, 1795, but early in that year discontinued the buildings which they had commenced under their contract, and in which very little progress has since been made. The President, however, did not think it prudent to offer for sale so large a portion of the public property as would be necessary to raise the sums requisite for carrying on the public buildings; believing, on grounds sufficiently solid to authorize the declaration of his opinion in a message to Congress, accompanying the memorial of the Commissioners hereafter mentioned, that this property would be amply sufficient for the purpose, could it be reserved till after the removal of Government, or till it could be sold in small parcels to such as would purchase for their own use. It was therefore determined to solicit the patronage of Congress, which was done in the year 1796, by a memorial from the Commissioners, stating the affairs of the Federal seat in as clear a light as circumstances would then admit, and suggesting the propriety of authorizing a loan bottomed on the city property, and guaranteed by Congress, if that property should prove deficient. Congress approved of the measure, and authorized a loan, under their guaranty, to the amount of \$300,000. It is needless to detail the fruitless attempts which were made to fill this loan with actual specie. The only loan which could be obtained was \$200,000 in United States six per cent. stock, at par, from the State of Maryland, and for which the Commissioners were obliged, in addition to the guaranty of Congress, to give bonds, in their individual capacities, agreeably to the resolutions of the Assembly of that State, passed in the years 1796 and 1797. (E.)

The moneys arising from the sales of this stock, with the interest accrued thereon previous to the respective sales, amount to \$169,873 41; and the interest paid thereon, up to the 30th of September last, inclusive, amounts to \$39,000; so that the net sum of \$130,873 41 remained applicable to the use of the public.

The extent of these loans being thus ascertained, and the purchasers of lots still failing to pay the amount of their purchases, it became obvious that the views of Government could not be accomplished without further aid.

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The Commissioners, therefore, prepared a second memorial to Congress, stating the situation of the Federal seat, and the resources which remained in their hands, which memorial was transmitted by the President to Congress on the 23d of February, 1798, and, in consequence, an act was passed authorizing the Treasurer of the United States to advance the sum of \$100,000, at the times in the said act mentioned, which was declared to be in full of the sums previously guaranteed. From the difficulty of collecting outstanding debts, as well from purchasers at public sales held by the Commissioners for default of payment by the first purchasers, as from the first purchasers themselves, it became evident that the several objects considered as necessary previous to the removal of Government could not be accomplished with the means at the disposal of the Commissioners; application was therefore made to the Assembly of Maryland for a loan, and a resolution of that Legislature was obtained on the 23d of December, 1799, directing the trustee of the State to transfer to the Commissioners of the Federal buildings in the City of Washington the sum of \$50,000 of the stock of the United States, bearing a present interest of six per cent. per annum, on their giving such real and personal security as the Governor and Council should approve, for the payment of the principal sum, on or before the 1st day of November, 1802, and the punctual payment of the interest quarter-yearly. Whereupon, Gustavus Scott and William Thornton, two of the Commissioners, together with Uriah Forrest and James M. Langan, entered into bond to the State of Maryland for payment of the principal sum of \$50,000, and interest thereon; and the said Uriah Forrest executed a mortgage on 420 acres of land, for the same purpose, agreeably to the said resolution; the abovementioned Commissioners having agreed, by a letter dated 28th of February, 1800, and directed to the said Uriah Forrest and James M. Langan, in answer to their letter of the same date, that all the property in the City of Washington, before that time sold or contracted for, and where the payments had not been made, (except the property pledged by the act of Congress to secure the loan of \$300,000,) should be held as security for the payment of the said sum of \$50,000. (F.)

The Trustee of the State transferred the stock accordingly, which has been sold at different times, including the interest received thereon, for the sum of \$42,738 36, and interest has been paid thereon up to the 30th of September last, inclusive, to the amount of \$2,250, leaving the net sum of \$40,488 96 to be applied to public use. The land which has been accepted, or purchased by the Commissioners for the use of the United States, and which yet remains unsold, (exclusive of lots forfeited for non-payment of the purchase money, and which for that cause are liable to be resold,) consists of 24,655,735 square feet of ground in the City of Washington, equal to 4,682 lots of 5,265 square feet each, exclusive of lots which bind on navigable water; these form fronts to the extent of 2,043 feet, and are generally sold by the

foot front. It is impossible to ascertain with precision the value of this property; some idea may be formed of it by taking the average price at which similar property has heretofore been sold; in this case, a reference must be had to the different situations; 3,178½ of the city lots lie north-east of Massachusetts avenue, in which situation only five standard lots (except 1,500, part of Morris & Greenleaf's selection of 6,000 lots) have been sold by the Commissioners; but many lots (of private property) on the same side of that avenue have been sold. We have been able to ascertain the price of 355 of these, which, united with the price of the five lots sold by the Commissioners, make an average of upwards of \$105 per standard lot, which rate would produce, by the sale of the whole number on that side of the avenue, the sum of \$333,747. The remaining 1,504 lots are situated to the southwest of Massachusetts avenue; the average price of lots sold in that division of the city, since passing the guaranty law in May, 1796, is \$343, at which rates the abovementioned 1,504 lots would produce \$515,872. The average price of lots binding on navigable water, sold during the same period, is \$12 71 per foot front. The property of this description, remaining to be sold at the same rate, would produce \$25,979 24. It is to be observed that most of these lots were sold at periods remote from the time when profit could be expected to arise from them, and many of them at reduced prices, in consequence of covenants to build thereon. Although it may be admitted that the lots heretofore sold, are, on an average, better than those which remain for sale, yet the change of circumstances under which future sales may be made we hope will more than counterbalance the difference. In addition to this property, four wharves have been built, at the expense of thirty-two hundred and twenty-one dollars eighty-eight cents, which yet remain in a useful state.

An island in Aquia creek, in the State of Virginia, was purchased, in the year 1791, for the sum of \$6,000, on account of the freestone quarries therein, which has been conveyed to the before-mentioned Thomas Beall and John M. Gantt for the use of the United States. Thus a real estate of the value of \$884,819 88, according to the best estimate we are able to form, remains at the disposal of Government. (G.)

The measures to be pursued, with regard to this property, it is not for us to determine; but we think it necessary to state some other matters which require attention. The debts due, and shortly to become due, to the city fund, and which are considered as good, amount to \$144,125 80; and the debts contracted on the credit of that fund, as nearly as can be ascertained, amount to \$360,881 05. (G.)

Although it is believed that all the debts stated to be good may be ultimately recovered, (they being due for property sold and not conveyed, or secured by notes with sufficient endorsers,) yet the difficulty of enforcing payment is such that they cannot be relied on for the punctual payment of the interest on the several loans from the State of

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Maryland, of the sums due to individuals, and the expenses of the Commissioners' office.

We further observe, that only three squares remain undivided, owing to the original proprietors not having agreed on their respective proportions therein; and that the division of thirty-three squares has been agreed upon, but the papers respecting them are not yet signed by the parties; and that the accounts with some of the original proprietors for land appropriated for public use have not yet been settled, owing to a difference of opinion between the Commissioners and them with respect to small portions of land for which they claim payment.

Thomas Beall and John M. Gantt, the trustees before named, have, at the request of the President of the United States, conveyed the building lots in the city of Washington to Gustavus Scott, William Thornton, and Alexander White, subject to the trusts remaining to be executed. Gustavus Scott has since deceased. The said trustees have been required by the President to convey the streets and grounds appropriated to public use to the Commissioners, but have not complied.

Several acts of the Legislature of Maryland have vested certain powers in the Commissioners, which it may be proper to notice, particularly an act passed the 19th December, 1791, entitled "An act concerning the Territory of Columbia and City of Washington," a copy whereof is enclosed, (marked H;) and an act passed in December, 1793, being a further supplement to the act above mentioned; by the first paragraph of which it is enacted, "That the certificates granted, or which may be granted by the said Commissioners, or any two of them, to purchasers of lots in the said city, with acknowledgment of the payment of the whole purchase money and interest, if any shall have arisen thereon, and recorded agreeably to the directions of the act concerning the Territory of Columbia and City of Washington, shall be sufficient and effectual to vest the legal estate in the purchasers, their heirs, and assigns, according to the import of such certificate, without any deed or formal conveyance."

The second paragraph of the last mentioned act, empowering the Commissioners to resell lots for default in payment of the first purchase money, has been before recited.

The Commissioners having stated all the facts and observations which appear to them necessary for the information of Government respecting the business committed to their charge, with the greatest deference and respect submit the same to the consideration of the President of the United States.

WILLIAM THORNTON,
ALEXANDER WHITE,
W. CRANCH.

COMMISSIONERS' OFFICE, Jan. 28, 1801.

A.

Copy of a Deed of Trust for Land in the City of Washington.

This indenture, made this — day of June, in the year 1791, between Abraham Young, of the

State of Maryland, of the one part, and Thomas Beall, of George, and John Mackall Gantt, of the State of Maryland, of the other part, witnesseth: That the said Abraham Young, for and in consideration of the sum of five shillings, to him in hand paid by the said Thomas Beall, of George, and John M. Gantt, before the ensealing and delivery of these presents, the receipt whereof he doth hereby acknowledge; and thereof doth, against the said Thomas Beall, of George, and John M. Gantt, their executors and administrators, and also for and in consideration of the uses and trusts hereinafter mentioned, to be performed by the said Thomas Beall, of George, and John M. Gantt, and the survivor of them, and the heirs of each survivor, according to the true intent and meaning thereof, hath granted, bargained, sold, aliened, released, and confirmed, and by these presents doth grant, bargain, sell, alien, release, and confirm, unto the said Thomas Beall and John M. Gantt, and the survivor of them, and the heirs of such survivor, all the lands of him, the said Abraham Young, lying and being within the following limits, boundaries, and lines, to wit: Beginning on the east side of Rock creek, at a stone standing in the middle of the road leading from Georgetown to Bladensburg; thence, along the middle of the said road, to a stone standing on the east side of the Reedy branch of Goose creek; thence, southeasterly, making an angle of sixty-one degrees and twenty minutes with the meridian, to a stone standing in the road leading from Bladensburg to the Eastern Branch ferry; then, south, to a stone eighty poles north of the east and west line already drawn from the mouth of Goose creek, to the Eastern Branch; thence, east, parallel to the said east and west line, to the Eastern Branch; thence, by and with the waters of the Eastern Branch, Potomac river, and Rock creek, to the beginning, with their appurtenances, except all and every lot or lots of which the said Abraham Young is seized, or to which he is entitled, lying in Carrollsburg or Hamburg; to have and to hold the hereby bargained and sold lands, with their appurtenances, to the said Thomas Beall, of George, and John M. Gantt, and the survivor of them, and the heirs of such survivor, forever, to and for the special trusts following, and no other, that is to say: that all the said lands hereby bargained and sold, or such part thereof as may be thought necessary and proper, to be laid out, together with other lands within the said limits, for a Federal city, with such streets, squares, parcels, and lots as the President of the United States, for the time being, shall approve; and that the said Thomas Beall, of George, and John M. Gantt, or the survivor of them, or the heirs of such survivor, shall convey to the Commissioners for the time being, appointed by virtue of the act of Congress, entitled "An act for establishing the temporary and permanent seat of the Government of the United States," and their successors, for the use of the United States, forever, all the said streets, and such of the said squares, parcels, and lots, as the President shall deem proper for the use of the United States; and that as to the residue of the

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lots, into which the lands hereby bargained and sold shall have been laid off and divided, that a fair and equal division of them shall be made; and if no other mode of division shall be agreed on by consent of the said A. Young, and the Commissioners for the time being, then such residue of the said lots shall be divided, every other lot alternate to the said A. Young; and it shall, in that event, be determined by lot whether the said A. Young shall begin by the lot of the lowest number laid out on the said land, or the following number; and all the said lots which may in any manner be divided or assigned to the said Abraham Young shall thereupon, together with any part of the said bargained and sold land, if any, which shall not have been laid out into the said city, be conveyed by the said Thomas Beall, of George, and John M. Gantt, or the survivor of them, or the heirs of such survivor, to him, the said Abraham Young, his heirs or assigns; and that the said other lots shall and may be sold at such time or times, in such manner, and on such terms and conditions, as the President of the United States for the time being shall direct. And that the said Thomas Beall, of George, and John M. Gantt, or the survivor of them, or the heirs of such survivor, will, on the order or direction of the President, convey all the said lots so sold and ordered to be conveyed to the respective purchasers, in fee simple, according to the terms and conditions of such purchases; and the produce of the sales of the said lots, when sold as aforesaid, shall, in the first place, be applied to the payment in money to the said A. Young, his executors, administrators, or assigns, for all the part of the land, hereby bargained and sold, which shall have been laid off in lots, squares, or parcels, and appropriated as aforesaid to the use of the United States, at the rate of twenty-five pounds per acre, not accounting the said streets as part thereof; and the said twenty-five pounds per acre being so paid, or in any other manner satisfied, that then the produce of the same sales, or what part thereof may remain as aforesaid in money, or securities of any kind, shall be paid, assigned, transferred, and delivered over to the President for the time being, as a grant of money, and to be applied for the purposes and according to the act of Congress aforesaid. But the said conveyance to the said A. Young, his heirs or assigns, as well as the conveyance to the purchasers, shall be on and subject to such terms and conditions as shall be thought reasonable by the President for the time being, for regulating the materials and manner of the buildings and improvements on the lots generally in the said city, or in particular streets or parts thereof, for common convenience, safety, and order; provided such terms and conditions be declared before the sales of any of the said lots under the direction of the President. And in trust further, and on the agreement that the said A. Young, his heirs or assigns, shall and may continue his possession and occupation of the said land hereby bargained and sold, at his and their will and pleasure, until the same shall be occupied under the said appropriations for the use of the United

States as aforesaid, or by purchasers. And when any lots or parcels shall be occupied under purchase or appropriations as aforesaid, then, and not till then, shall the said A. Young relinquish his occupation thereon. And in trust, also, as to the trees, timber, and wood on the premises, that he, the said A. Young, his heirs or assigns, may freely cut down, take, and use the same as his and their property, except such of the trees and wood growing as the President or Commissioners aforesaid may judge proper, and give notice, shall be left for ornament; for which the just and reasonable value shall be paid to the said A. Young, his executors, administrators, or assigns, exclusive of the twenty-five pounds per acre for the land. And in case the arrangements of the streets, lots, and the like, will conveniently admit of it, he, the said A. Young, his heirs and assigns, shall, if he so desire it, possess and retain the buildings and graveyards, if any, on the hereby bargained and sold lands, paying to the President at the rate of twelve pounds ten shillings per acre for the lands so retained, because of such buildings and graveyards to be applied as aforesaid; and the same shall be thereupon conveyed to the said A. Young, his heirs and assigns, with his lots; but if the arrangements of the streets, lots, and the like, will not conveniently admit of such retention, and it shall become necessary to remove such buildings, then the said A. Young, his executors, administrators, or assigns, shall be paid the reasonable value thereof, in the same manner as squares or other ground appropriated for the use of the United States are to be paid for. And because it may so happen that, by the deaths or removals of the said Thomas Beall, of George, and John M. Gantt, and from other causes, difficulties may arise in fully perfecting the said trusts by executing all the said conveyances, if no eventual provision is made; it is therefore agreed and covenanted between all the said parties, that the said Thomas Beall, of George, and John M. Gantt, or either of them, or the heirs of either of them, lawfully may, and that they at any time at the request of the President of the United States for the time being, will convey all or any of the said lands hereby bargained and sold, which shall not then have been conveyed in execution of the trusts aforesaid, to such person or persons as he shall appoint, in fee simple, subject to the trusts then remaining to be executed, and to the end that the same may be perfected. And it is further granted and agreed between all the said parties, and each of the said parties doth for himself respectively, and for his heirs, covenant and grant to and with the others of them, that he and they shall and will, if required by the President of the United States for the time being, join in and execute any further deed or deeds carrying into effect the trusts, purposes, and true intent of this present deed.

In witness whereof, the parties to these presents have interchangeably set their hands and affixed their seals, the day and year first above written.

Signed, sealed, &c.,

A. YOUNG.

R. T. HOOE,

DANIEL JENIFER, Jun.

City of Washington.

B.

Copy of the President's order to the Commissioners to sell at private sale.

SEPTEMBER 29, 1792.

The President of the United States doth hereby order and direct that any lot or lots in the City of Washington may, after the public sale, to commence on the 8th day of October, be sold and agreed for by the Commissioners, or any two of them, at private sale, for such price and on such terms as they may think proper.

GEO. WASHINGTON.

C.

Copy of Morris and Greenleaf's contract with the Commissioners, dated 24th December, 1793.

Articles of agreement made and indented this twenty-fourth day of December, in the year of our Lord one thousand seven hundred and ninety-three, between the Commissioners for the Federal Buildings in the City of Washington on the one part, and Robert Morris, of the city of Philadelphia, and James Greenleaf, of the city of New York, Esquires, of the other part.

Whereas the said Commissioners, on the twenty-third day of September last, did enter into an agreement, in writing, with the said James Greenleaf, for the sale of three thousand lots of ground in the City of Washington, at the price of twenty-five pounds, current money of Maryland, for each lot, to be ascertained in the mode specified in the said agreement; and the sale to be made upon the terms and conditions therein also specified, as by the said agreement, reference being thereto had, will more fully appear; and whereas the said James Greenleaf is empowered by the said Robert Morris to enter into a contract in his name and on his behalf, as his agent, for the purchase of a like number of lots in the said City of Washington, for such price and on such terms and conditions as may be agreed upon between him and the said Commissioners; and, in pursuance of such power, the said James Greenleaf hath agreed with the said Commissioners for the purchase of three thousand lots of ground in the said City of Washington, fifteen hundred of them to be designated on the southwest, and fifteen hundred of them to be designated on the northeast side of Massachusetts avenue, at the price of thirty-five pounds, current money aforesaid, for each of the said lots, payable yearly, in seven equal payments, without interest; the first of which payments to be made on the first day of May next ensuing the date of these presents, and so on the first day of May in each year succeeding thereto, until the whole of the seven payments shall have been made; and hath further agreed, in pursuance of the said power, that the said Robert Morris should build annually, for seven years next ensuing, ten brick houses, of two stories each, and each of them covering twelve hundred square feet, making, in the whole, seventy houses; and that the said Robert Morris, or his heirs, should not, before the first day of January, in the year one thousand seven hundred and ninety-six, sell or contract for the sale

of any of the said lots, but under and upon the express condition that one such house, at the least, should be built and erected on every third lot, within four years next after such sale or contract for sale. But it is understood and hereby declared to be the meaning of the parties to these presents, that the said Robert Morris and James Greenleaf may, at their pleasure, associate to them one or more persons in the whole purchase, without creating on any of them an obligation to erect on or for every third lot; and whereas it is agreed by and between the said Commissioners and the said James Greenleaf, that everything relating to a loan specified in the contract above mentioned, made between the said Commissioners and the said James Greenleaf on the twenty-third day of September last, to be hereafter made by the said James Greenleaf, shall be referred to a new contract, made and entered into this day by and between the said Commissioners and the said James Greenleaf, and shall have no other effect whatever than what such new contract specifies and ascertains; and whereas it is thought best, by the parties to these presents, to consolidate and join in one contract both the said agreements, and, further to prevent all disagreement concerning the size of the said lots, to fix and ascertain five thousand two hundred and sixty-five square feet as the average of the areas of the lots contracted for as aforesaid, as well as to ascertain and fix the general location of them, and to modify that part of the agreement with regard to the improvements to be made: *Now, therefore, these articles witness,* That the said Commissioners had sold and contracted for the sale and conveyance, and do hereby, for themselves and their successors, in consideration of the covenants of the said Robert Morris and James Greenleaf, hereinafter expressed, being fully executed and performed on their part, sell and contract for the sale and conveyance to them, the said Robert Morris and James Greenleaf, as tenants in common, and their heirs, in fee, six thousand lots of ground in the said City of Washington, upon the average of five thousand two hundred and sixty-five square feet to each lot, so that the aggregate in lots, reckoning in the ways to the squares, as the proportion thereof to the lots to be conveyed, shall amount to thirty-one million five hundred and ninety-thousand square feet, four thousand five hundred of which lots shall lie to the southwest of Massachusetts avenue, and the remaining fifteen hundred shall lie to the northeast of the said avenue. And that, of the said four thousand five hundred lots on the southwest of the said avenue, the said Robert Morris and James Greenleaf shall have the part of the city on Notley Young's land, and in that part of Daniel Carroll's land which lies in the branches of the canal, clear of Carrollsburg. And that the said Robert Morris and James Greenleaf shall have a right to choose, to satisfy the residue of the said four thousand five hundred lots lying to the southwest of the Massachusetts avenue aforesaid, on any part of the said southwest side of the avenue that they shall think proper, excepting such lots as shall lie in squares numbered as follow, to wit,

City of Washington.

&c. &c., and the lots lying in Carrollsburg; and also further excepting the water lots, including the water lots lying on the Eastern Branch, and also one-half of the lots lying in Hamburg; the lots in that part of the city, and belonging to it, other than water lots, being to be divided, by alternate choice, between the said Commissioners and the said Robert Morris and James Greenleaf: Provided, however, and it is hereby agreed, by and between the parties to these presents, that the said Robert Morris and James Greenleaf are entitled to the lots in Notley Young's land, and, of course, to the privileges of wharfing annexed thereto; and that lots adjoining the canal are not reckoned water lots; and that the said Robert Morris and James Greenleaf shall have a right to choose the remaining fifteen hundred lots lying to the northeast of the said Massachusetts avenue, or any part thereof they shall think proper, excepting one-half of the squares which shall adjoin the spot that may be appropriated for a national university, which is expected to be fixed on the northeast side of the said avenue. And the said Robert Morris and James Greenleaf, do hereby, in consideration of the agreement on the part of the said Commissioners hereinbefore set forth, for themselves, their heirs, executors, and administrators, jointly and severally agree to and with the said Commissioners to pay to them or their successors thirty pounds, current money of Maryland, for each of the said six thousand lots contracted to be sold as aforesaid, amounting to one hundred and thirty thousand pounds, current money aforesaid, in seven equal annual payments, without interest, and the first payment to be made on the first day of May next ensuing the date of these presents; and that they will build and erect yearly, on some parts of the said lots, twenty brick houses, of two stories each, and each house covering twelve hundred square feet, until the number of one hundred and forty houses shall be built and erected; and that all buildings and improvements to be made on any of the said lots shall conform to the general regulations published by the President of the United States; and that neither the said Robert Morris and James Greenleaf, nor their heirs, will sell or contract for the sale of any of the said lots before the first day of January, one thousand seven hundred and ninety-six, but upon the express condition that one such house, at least, as above described, shall be built and erected on every third lot, at the least, within four years after such sale or contract for sale. But, as it will promote the interest of the city that at least some of the said houses should be larger, and that all front houses of the size of those described should be of three stories in height, it is agreed by and between the parties aforesaid, and declared by them to be the meaning of these presents, that the area of all houses exceeding twelve hundred square feet shall be reckoned accordingly, and discount in proportion as they cover more than the twelve hundred square feet; and that all houses of three proper proportioned stories shall be reckoned and discounted at the rate of one-fourth part more than their area, so that the aggregate of houses of

not less than twelve hundred square feet shall cover, with the allowance of one-fourth for three story houses, one hundred and sixty-eight thousand square feet. And it is hereby declared, that the covenants and agreements, on the part of the said Robert Morris and James Greenleaf, and the true and faithful performance of them, are the terms and conditions of the sale of the said six thousand lots. And it is further agreed, by and between the parties aforesaid, that, in the division that is hereafter to be made between the said Commissioners and the present proprietors of the property of the said City of Washington, due regard shall be had by the said Commissioners that such divisions shall take place, as far as consistently may be, for the interest of the said Robert Morris and James Greenleaf. And, further, it is understood and declared, that the lots already sold or contracted for by the Commissioners are not to be chosen by the said Robert Morris and James Greenleaf.

In witness whereof, we have hereunto set our hands the day and year first above written.

R. MORRIS,

by J. Greenleaf, his agent.

J. GREENLEAF.

T. JOHNSON,

D. STEUART,

D. CARROL,

} Commissioners.

Witness: WILLIAM DEAKINS, Jun.

D.

Copy of Minute of 24th April, 1794.

The Commissioners of the Federal District and Mr. Greenleaf entered on the subject of Messrs. Morris and Greenleaf's propositions, of the 7th of January last, communicated by the Commissioners to the Secretary of State, and being mutually disposed to accommodate in order to effect their common view of improvement of the city, have fallen on the following mode of carrying on and settling the contract of Messrs. Morris and Greenleaf:

1st. That an account shall be raised between the Commissioners and Messrs. Morris and Greenleaf, charging the lots which may from time to time be conveyed to them or their assigns, and giving credit for the payments, as made.

2d. That the Commissioners will grant a certificate or deed in fee for the public lots contracted for by Morris and Greenleaf, on Mr. Notley Young's land, and supposed to be about one thousand, as soon as those lots can be ascertained, or even before, if a general description will answer the purposes of Messrs. Morris and Greenleaf, on their giving bond, with Mr. John Nicholson, for the amount of the same, and for performing the contract made relative to improvements.

3d. And in order that Messrs. Morris and Greenleaf may have the advantage of disposing of any of their lots, amounting to six thousand, at their will, the Commissioners, on their assignment or order, will grant certificates or deeds in fee to such persons as they may from time to time require, acknowledging the payment of the consideration money, and subjoining thereto the condi-

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tion of improvement, (if any is to be made,) according to the contract of Messrs. Morris and Greenleaf; the Commissioners being willing to rely on the condition to be inserted in the certificate, or in the responsibility of Morris, Greenleaf, and Nicholson, as the case may require, for the improvement of every third lot sold by them before the 1st day of January, 1796, agreeable to the tenor of their contract; and the Commissioners are willing to allow the amount of one thousand lots, and the improvements on the whole number of lots, to rest on the joint and several bonds of Morris, Greenleaf, and Nicholson; it being intended that a credit on their personal security may at any and at all times amount to the cost of one thousand lots, as before mentioned.

[NOTE.—The above is a copy of an entry made in the minutes of the Commissioners, between the 15th and 24th April, 1794.]

E—1

Resolutions passed in 1796 and 1797, for loans to the Commissioners, by the Legislature of Maryland.

BY THE HOUSE OF DELEGATES,
December 14, 1796.

Resolved, That this State will loan, for the use of the City of Washington, the sum of \$100,000, agreeably to the request made by the Commissioners of the said city, under the authority given by the President of the United States to them, conformably to the act of the Congress of the United States.

Resolved, That the said loan be paid in six per cent. stock of the United States, bearing an immediate interest of six per cent. at par; which sum the Trustee of this State is authorized to transfer to the said Commissioners: *Provided*, To secure the repayment of the same with interest, at the times and in the manner prescribed by the act of Congress entitled "An act authorizing a loan for the use of the City of Washington, in the District of Columbia, and for other purposes therein mentioned," Gustavus Scott, William Thornton, and Alexander White, or a majority of them, give bond to the State of Maryland conditioned for the payment of \$100,000, and punctual payment of six per cent. interest on the said sum of \$100,000, quarterly, and on the several days on which interest on the said stock is now received from the United States: *And, provided also*, That, before the transfer of the said stock, Gustavus Scott, William Thornton, and Alexander White, in their individual capacities, give bond to the State of Maryland in the penalty of \$200,000, conditioned for the payment of the said sum of \$100,000, with interest, at the times and in the mode prescribed by the act of Congress aforesaid, as additional and collateral securities for the same.

By order:

WILLIAM HARWOOD,
Clerk of the House of Delegates.

Assented to by the Senate, Dec. 17, 1796.

E—2.

Resolution of the Maryland Legislature, passed December, 1797, for a loan of \$100,000 to the City of Washington.

BY THE HOUSE OF DELEGATES,
December 22, 1797.

Resolved, That this State will loan, for the use of the City of Washington, the sum of \$100,000, agreeably to the request made by the Commissioners of the said city, under the authority given by the President of the United States to them, conformably to the act of Congress of the United States.

Resolved, That the said loan be paid in six per cent. stock of the United States, bearing an immediate interest of six per cent., at par; which sum the Trustee of this State is authorized to transfer to the said Commissioners: *Provided*, To secure the repayment of the same, with interest, at the times and in the manner prescribed by the act, entitled "An act authorizing a loan for the use of the City of Washington, in the District of Columbia, and for other purposes therein mentioned," Gustavus Scott, William Thornton, and Alexander White, or a majority of them, give bond to the State of Maryland, conditioned for the payment of \$100,000, and punctual payment of six per cent. interest on the said sum of \$100,000, quarterly, and on the several days on which interest on the said stock is now receivable from the United States: *And provided also*, That, before the transfer of the said stock, Gustavus Scott, William Thornton, and Alexander White, in their individual capacities, give bond to the State of Maryland, in the penalty of \$200,000, conditioned for the repayment of the said sum of \$100,000, with interest, at the times and in the modes prescribed by the act of Congress aforesaid, as additional and collateral security for the same.

WM. HARWOOD,
Clerk of the House of Delegates.

BY THE SENATE, Dec. 22, 1797.

Read the first and second time, by especial order, and assented to.

By order: ARCH. VAN HORN.
Clerk of the Senate.

F.

Resolution of the Assembly of Maryland, passed December, 1799, for a loan of \$50,000, to the City of Washington.

BY THE HOUSE OF DELEGATES,
December 23, 1799.

Resolved, That the Trustee of this State transfer to the order of the Commissioners of the Federal Buildings, in the City of Washington, the sum of \$50,000 of the stock of the United States, bearing a present interest of six per cent. per annum, upon their giving such real and personal security as the Governor and Council shall approve for the payment of the principal sum, on or before the 1st day of November, in the year 1802, and the punctual payment of the interest thereon quarter-yearly; and if the interest is at any time thirty days

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in arrear, the whole principal to be sued for and recovered.

By order: **WM. HARWOOD, Clerk.**

By **THE SENATE, Dec. 23, 1799.**

Read the first and second time, by especial order, and assented to.

By order: **A. VAN HORN, Clerk.**

Uriah Forrest and James M. Lingan's letter to the Commissioners.

FEBRUARY 28, 1800.

GENTLEMEN: We expect that if we comply with your wish, and become sureties to the State of Maryland, you will consider that all the property in the city heretofore sold or contracted for, and where payments have not been made, (excepting the property pledged by the act of Congress, to secure the loan of \$300,000) will be held as a security for the repayment of this money (say \$50,000) to the State; and if you should think it advisable, you will, on reasonable notice, proceed to sell the property, or such parts as may be necessary, and pay over the notes, or the money arising therefrom, to the State, in discharge of this specific debt.

We are respectfully, gentlemen, your most obedient servants,

**URIAH FORREST,
JAS. M. LINGAN.**

The COMMISSIONERS, &c, Washington.

Answer of Commissioners to Messrs. Forrest and Lingan's letter of this date.

FEBRUARY 28, 1800.

GENTLEMEN: We are favored with your letter of this day, and think the terms asked by you perfectly just and reasonable, and have no hesitation in saying we will readily agree to them.

We are, gentlemen, your obedient servants,

**GUSTAVUS SCOTT.
WILLIAM THORNTON.**

Messrs. LINGAN & FORREST.

G—1.

COMMISSIONERS' OFFICE, Jan. 28, 1801.

Schedule of public property on hand belonging to the Federal seat.

1,504 building lots, southwest of Massachusetts avenue, estimated at \$343 each	-	\$515,872 00
3,178½ building lots, northeast of said avenue, estimated at \$105 each	-	333,747 00
2,043 feet front of lots, binding on navigable water, estimated at \$12 71 per foot front	-	25,979 00
Four wharves, cost	-	3,221 88
Island, containing freestone quarries in Aquia creek, cost	-	6,000, 00
		\$884,819 88
Debts due to the Commissioners, which are deemed good	-	144,125 80
		\$1,028, 945 68

Debts contracted on the credit of the above fund - | - | - | 360,881 05 || Fund remaining, clear amount | - | \$668,064 | 63 | |

THOMAS MUNROE,
Clerk to the Commissioners.

[Table G—2, is a list of balances which appear to be due to the Commissioners of the City of Washington on the 1st January, 1801, exclusive of interest, amounting to \$140,032 33.]

[Table G—3, is a list of notes passed for the purchase money of lots sold at public sale for default in payment by Morris and Nicholson, the original purchasers thereof; the amount of the principal of which said notes is included in the balance of \$195,241 43, stated to be due from said Morris and Nicholson, in the document herewith exhibited, marked G—2. The amount of said notes, when paid, to be credited in account to said Morris and Nicholson.]

[Table G—4, is a list of debts due from the Commissioners of the City of Washington on the 1st of January, 1801, as correctly as can be ascertained, amounting to \$360,881 05.]

[Table G—5, is a list of balances becoming due to the Commissioners of the City of Washington, in the year 1801, for lots purchased, amounting to \$4,093 47.]

H.

Acts passed by the General Assembly of Maryland concerning the Territory of Columbia and the City of Washington.

An Act for the cession of ten miles square, or any less quantity of territory within this State, to the United States, in Congress assembled, for the permanent seat of the General Government.—(Passed Dec. 3, 1789.)

Whereas the equal and common benefits resulting from the administration of the General Government will be best diffused, and its operations become more prompt and certain, by establishing such a situation for the seat of the said Government as will be most central and convenient to the citizens of the United States at large, having regard as well to population, extent of territory, and a free navigation to the Atlantic Ocean, through the Chesapeake Bay, as to the most direct and ready communication with our fellow-citizens in the western frontier: And whereas it appears to this Assembly, that a situation combining all the considerations and advantages before recited may be had on the banks of the river Potomac, above tide-water, in a country rich and fertile in soil, healthy and salubrious in climate, and abounding in all the necessities and conveniences of life, where, in a location of ten miles square, if the wisdom of Congress shall so direct, the States of Pennsylvania, Maryland, and Virginia, may participate in such location:

Be it therefore enacted by the General Assembly,

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That a tract of country, not exceeding ten miles square, or any less quantity, to be located within the limits of this State, and in any part thereof as Congress may by law direct, shall be, and the same is hereby forever, ceded and relinquished to the Congress and the Government of the United States, in full and absolute right, and exclusive jurisdiction as well of soil as of persons residing or to reside thereon, pursuant to the tenor and effect of the eighth section of the first article of the Constitution of government of the United States.

Provided, That nothing herein contained shall be construed to vest in the United States any right of property in the soil, or to affect the rights of individuals therein, otherwise than the same shall or may be transferred by such individuals to the United States.

And provided, also, That the jurisdiction of the laws of this commonwealth over the persons and property of individuals residing within the limits of the cession aforesaid, shall not cease or determine, until Congress, having accepted the said cession, shall by law provide for the government thereof, under their jurisdiction, in manner provided by the article of the Constitution before recited.

An act concerning the Territory of Columbia, and the City of Washington.—(Passed Dec. 19, 1791.)

Whereas the President of the United States, by virtue of several acts of Congress, and acts of the Assemblies of Virginia and Maryland, by his proclamation dated at Georgetown, on the thirtieth day of March, seventeen hundred and ninety-one, did declare and make known, that the whole of the territory of ten miles square, for the permanent seat of Government of the United States, shall be located and included within the four lines following; that is to say, beginning at Jones's Point, being the upper point of Hunting creek, in Virginia, and at an angle in the outset of forty-five degrees west of the north, and running a direct line ten miles for the first line; then beginning again at the same Jones's Point, and running another direct line at a right angle with the first, across the Potomac, ten miles for the second line; then from the terminations of the said first and second lines, running two other direct lines, ten miles each, the one crossing the Eastern Branch and the other the Potomac, and meeting each other in a point; which has since been called the Territory of Columbia; and whereas Notley Young, Daniel Carroll, of Duddington, and many others, proprietors of the greater part of the land hereinafter mentioned to have been laid out in a city, came into an agreement, and have conveyed their lands in trust to Thomas Beall, son of George, and John Mackall Gantt, whereby they have subjected their lands to be laid out as a city, given up part to the United States, and subjected other part to be sold to raise money as a donation to be employed according to the act of Congress for establishing the temporary and permanent seat of the Government of the United States, under and

upon the terms and conditions contained in each of the said deeds; and many of the proprietors of lots in Carrollsburg and Hamburg have also come into an agreement, subjecting their lots to be laid out anew, giving up one-half of the quantity thereof to be sold, and the money thence arising to be applied as a donation as aforesaid, and they to be reinstated in one half the quantity of their lots in the new location, or otherwise compensated in land in a different situation within the city, by agreement between the Commissioners aforesaid and them; and, in case of disagreement, that then a just and full compensation shall be made in money; yet some of the proprietors of lots in Carrollsburg and Hamburg, as well as some of the proprietors of other lands, have not, from imbecility and other causes, come into any agreement concerning their lands within the limits hereinafter mentioned, but a very great proportion of the landholders having agreed on the same terms, the President of the United States directed a city to be laid out, comprehending all the lands beginning on the east side of Rock creek, at a stone standing in the middle of the road leading from Georgetown to Bladensburg; thence along the middle of the said road, to a stone standing on the east side of the Reedy branch of Goose creek; then southeasterly, making an angle of sixty-one degrees and twenty minutes with the meridian, to a stone standing in the road leading from Bladensburg to the Eastern Branch ferry; thence south to a stone eighty poles north of the east and west line already drawn from the mouth of Goose creek to the Eastern Branch; then east, parallel to the said east and west lines, to the Eastern Branch; then with the waters of the Eastern Branch, Potomac river, and Rock creek, to the beginning, which has since been called the City of Washington: and whereas it appears to this General Assembly highly just and expedient that all the lands within the said city should contribute, in due proportion, in the means which have already very greatly enhanced the value of the whole; that an incontrovertible title ought to be made to the purchasers, under public sanction; that allowing foreigners to hold land within the said territory will greatly contribute to the improvement and population thereof; and that many temporary provisions will be necessary, till Congress exercise the jurisdiction and government over the said Territory: And whereas in the cession of this State, heretofore made, of Territory for the Government of the United States, the lines of such cession could not be particularly designated; and it being expedient and proper that the same should be recognised in the acts of this State:

2. *Be it enacted by the General Assembly of Maryland,* That all the part of the said Territory, called Columbia, which lies within the limits of this State, shall be, and the same is hereby acknowledged to be, forever ceded and relinquished to the Congress and Government of the United States, in full and absolute right, and exclusive jurisdiction, as well of soil as of persons residing or to reside thereon, pursuant to the tenor and

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effect of the eighth section of the first article of the constitution of Government of the United States: *Provided*, That nothing herein contained shall be so construed to vest in the United States any right of property in the soil, as to affect the rights of individuals therein, otherwise than the same shall or may be transferred by such individuals to the United States: *And provided, Also*, That the jurisdiction of the laws of this State, over the persons and property of individuals residing within the limits of the cession aforesaid, shall not cease or determine until Congress shall by law provide for the government thereof, under their jurisdiction, in manner provided by the article of the Constitution before recited.

3. *And be it enacted*, That all the lands belonging to minors, persons absent out of the State, married women, or persons *non compos mentis*, or lands the property of this State, within the limits of Carrollsburg and Hamburg, shall be and are hereby subjected to the terms and conditions hereinbefore recited, as to the lots where the proprietors thereof have agreed concerning the same; and all the other lands belonging as aforesaid, within the limits of the said City of Washington, shall be and are hereby subjected to the same terms and conditions as the said Notley Young, Daniel Carroll of Duddington, and others, have by their said agreements and deeds, subjected their lands to; and where no conveyances have been made, the legal estate and trust are hereby invested in the said Thomas Beall, son of George, and John Mackall Gantt, in the same manner as if each proprietor had been competent to make, and had made, a legal conveyance of his or her land, according to the form of those already mentioned, with proper acknowledgements of the execution thereof, and, where necessary, of release of dower; and in every case where the proprietor is an infant, a married woman, insane, absent out of this State, or shall not attend on three months' advertisement of notice in the Maryland Journal, and Baltimore Advertiser, the Maryland Herald, and in the Georgetown and Alexandria papers, so that allotment cannot take place by agreement, the Commissioners aforesaid, or any two of them, may allot and assign the portion or share of such proprietor, as near the old situation as may be, in Carrollsburg and Hamburg, and to the full value of what the party might claim under the terms before recited; and as to the other lands within the said city, the Commissioners aforesaid, or any two of them, shall make such allotment and assignment, within the lands belonging to the same person, in alternate lots, determining by lot or ballot whether the party shall begin with the lowest number: *Provided*, That in the cases of coverture and infancy, if the husband, guardian, or next friend, will agree with the Commissioners, or any two of them, then an effectual division may be made by consent; and in case of contrary claims, if the claimants will not jointly agree, the Commissioners may proceed as if the proprietor was absent; and all persons to whom allotments and assignments of lands shall be made by the Commissioners, or any two of them, on consent

and agreement, or pursuant to this act without consent, shall hold the same in their former estate and interest, and in lieu of their former quantity, and subject in every respect to all such limitations, conditions, and incumbrances, as their former estate and interest, and in lieu of their former quantity, and subject in every respect to all such limitations, conditions, and incumbrances, as their former estate and interest were subject to, and as if the same had been actually reconveyed pursuant to the said deed in trust.

4. *And be it enacted*, That where the proprietor or proprietors, possessor or possessors, of any lands within the limits of the City of Washington, or within the limits of Carrollsburg and Hamburg, who have not already, or who shall not within three months after the passage of this act, execute deeds in trust to the aforesaid Thomas Beall, and John M. Gantt, of all their lands within the limits of the said City of Washington, and on the terms and conditions contained in the deeds already executed by Notley Young and others, and execute deeds in trust to the said Thomas Beall and John M. Gantt, of all their lots in the towns of Carrollsburg and Hamburg, on the same terms and conditions mentioned in the deeds already executed by the greater part of the proprietors of lots in the said towns, the said Commissioners, or any two of them, shall and may, at any time or times thereafter, issue a process directed to the Sheriff of Prince George's county, commanding him, in the name of the State, to summon five good substantial freeholders, who are not of kin to any proprietor or proprietors of the land aforesaid, and who are not proprietors themselves, to meet on a certain day, and at a certain place, within the limits of the said city, to inquire of the value of the estate of such proprietor or proprietors, possessor or possessors, on which day and place the said sheriff shall attend, with the freeholders by him summoned; which freeholders shall take the following oath or affirmation, on the land to be by them valued, to wit: "I A. B., do solemnly swear (or affirm,) that I will, to the best of my judgment, value the lands of C. D. now to be valued, so as to do equal right and justice to the said C. D. and to the public, taking into consideration all circumstances," and shall then proceed to value the said lands; and such valuation, under their hands and seals, and under the hand and seal of the said sheriff, shall be annexed to the said process, and returned by the sheriff to the clerk appointed by virtue of this act, who shall make record of the same; and the said lands shall, on the payment of such valuation, be, and are hereby, vested in the said Commissioners, in trust, to be disposed of by them, or otherwise employed to the use of the said City of Washington; and the sheriff aforesaid and freeholders aforesaid shall be allowed the same fees for their trouble as are allowed to a sheriff and jurymen in executing a writ of inquiry; and in all cases where the proprietor or possessor is a tenant in right of dower, or by the courtesy, the freeholders aforesaid shall ascertain the annual value of the lands and the gross value of such estate therein; and,

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upon paying such gross value, or securing to the possessor the payment of the annual valuation, at the option of the proprietor or possessor, the Commissioners shall be, and are hereby, vested with the whole estate of such tenant, in manner and for the uses and purposes aforesaid.

5. *And be it enacted*, That all the squares, lots, pieces, and parcels of land, within the said city, which have been or shall be appropriated for the use of the United States, and also the streets, shall remain and be for the use of the United States; and all the lots and parcels which have been or shall be sold to raise money as a donation as aforesaid, shall remain and be to the purchasers, according to the terms and conditions of their respective purchases; and purchases and leases from private persons claiming to be proprietors, and having, or those under whom they claim having, been in possession of the lands purchased or leased, in their own right, five whole years next before the passing of this act, shall be good and effectual for the estate, and on the terms and conditions of such purchases and leases, respectively, without impeachment, and against any contrary title now existing; but if any person hath made a conveyance, or shall make a conveyance or lease, of any lands within the limits of the said city, not having right and title to do so, the person who might be entitled to recover the land under a contrary title now existing may, either by way of ejectment against the tenant, or in action for money had and received for his use against the bargainer or lessor, his heirs, executors, administrators, or devisees, as the case may require, recover all money received by him for the squares, pieces, or parcels, appropriated for the use of the United States, as well as for lots or parcels sold, and rents received, by the person not having title as aforesaid, with interest from the time of the receipt; and, on such recovery in ejectment, where the land is in lease, the tenant shall thereafter hold under, and pay the rent reserved to, the person making title to and recovering the land; but the possession *bona fide* acquired in none of the said cases shall be changed.

6. *And be it enacted*, That any foreigner may, by deed or will hereafter to be made, take and hold lands within that part of the said territory which lies within this State, in the same manner as if he was a citizen of this State, and the same lands may be conveyed by him, and transmitted to, and be inherited by, his heirs or relations, as if he and they were citizens of this State: *Provided*, That no foreigner shall, in virtue hereof, be entitled to any further or other privilege of a citizen.

7. *And be it enacted*, That the said Commissioners, or any two of them, may appoint a clerk for recording deeds of lands within the said Territory, who shall provide a proper book for the purpose, and therein record, in a strong legible hand, all deeds duly acknowledged, of lands in the said Territory, delivered to him to be recorded, and in the same book make due entries of all divisions and allotments of lands and lots made by the Commissioners in pursuance of this act, and certificates granted by them of sales, and the pur-

chase money having been paid, with a proper alphabet in the same book of the deeds and entries aforesaid; and the same book shall carefully preserve, and deliver over to the Commissioners aforesaid, or their successors, or such person or persons as Congress shall hereafter appoint; which clerk shall continue such during good behaviour, and shall be removable only on conviction of misbehaviour in a court of law; but before he acts as such, he shall take an oath, or affirmation, well and truly to execute his office, and he shall be entitled to the same fees as are or may be allowed to the clerks of the county courts for searches, copying, and recording.

8. *And be it enacted*, That acknowledgments of deeds made before a person in the manner and certified as the laws of this State direct, or made before and certified by either of the Commissioners, shall be effectual; and that no deed hereafter to be made of or for lands within that part of the said territory which lies within this State, shall operate as a legal conveyance; nor shall any lease for more than seven years be effectual, unless the deed shall have been acknowledged as aforesaid, and delivered to the said clerk to be recorded within six calendar months from the date thereof.

9. *And be it enacted*, That the Commissioners aforesaid, or some two of them, shall direct an entry to be made in the said record book of every allotment and assignment to the respective proprietors, in pursuance of this act.

10. *And*, for the encouragement of master builders to undertake the building and finishing houses within the said city, by securing to them a just and effectual remedy for their advances and earnings, *Be it enacted*, That for all sums due and owing, on written contracts, for building any house in said city, or the brick work, or carpenters' or joiners' work thereon, the undertaker, or workman, employed by the person for whose use the house shall be built, shall have a lien on the house and the ground on which the same is erected, as well as for the materials found by him; provided the said written contract shall have been acknowledged before one of the Commissioners, a justice of the peace, or an alderman of the corporation of Georgetown, and recorded in the office of the clerk for recording deeds herein created, within six calendar months from the time of acknowledgment as aforesaid; and if, within two years after the last of the work is done, he proceeds in equity, he shall have remedy as upon a mortgage; or, if he proceeds at law within the same time, he may have execution against the house and land, in whose hands soever the same may be; but this remedy shall be considered as additional only, nor shall, as to the land, take place of any legal incumbrance made prior to the commencement of such claim.

11. *And be it enacted*, That the Treasurer of the Western Shore be empowered and required to pay the seventy-two thousand dollars agreed to be advanced to the President by resolutions of the last session of Assembly, in sums as the same may come to his hands, on the appointed funds,

without waiting for the day appointed for the payment thereof.

12. *And be it enacted*, That the Commissioners aforesaid for the time being, or any two of them, shall, from time to time, until Congress shall exercise the jurisdiction and government within the said territory, have power to license the building of wharves in the waters of the Potomac and the Eastern Branch, adjoining the said city, of the materials, in the manner, and of the extent, they may judge durable, convenient, and agreeing with general order; but no license shall be granted to one to build a wharf before the land of another, nor shall any wharf be built in the said waters without license as aforesaid; and if any wharf shall be built without such license, or different therefrom, the same is hereby declared a common nuisance; they may also, from time to time, make regulations for the discharge and laying of ballast from ships or vessels lying in the Potomac river, above the lower line in said territory and Georgetown, and from ships and vessels lying in the Eastern Branch; they may also, from time to time, make regulations for landing and laying materials for building the said city, for disposing and laying earth which may be dug out of the wells, cellars, and foundations, and for ascertaining the thickness of the walls of houses, and to enforce the observance of all such regulations, by appointing penalties for a breach of any one of them, not exceeding ten pounds current money, which may be recovered in the name of the said Commissioners, by warrant, before a justice of the peace, as in case of small debts, and disposed of as a donation for the purposes of the said act of Congress; and the said Commissioners, or any two of them, may grant licenses for retailing distilled spirits within the limits of the said city, and suspend or declare the same void; and if any person shall retail or sell any distilled spirits, mixed or unmixed, in less quantity than ten gallons to the same person, or at the same time actually delivered, he or she shall forfeit for every such sale three pounds, to be recovered and applied as aforesaid.

13. *And be it enacted*, That an act of Assembly of this State, to condemn lands, if necessary, for the public buildings of the United States, be and is hereby repealed.

[Communicated to the House of Reps., Feb. 27, 1801.]

Mr. GRISWOLD, from the committee who were appointed to inquire into the expenditure of money made by the Commissioners of the City of Washington, the disposition of public property made by them, and generally into all the transactions of the Commissioners which relate to the trust confided to them by the President of the United States, made the following report:

That the short period which has elapsed since they have been possessed of the documents relating to the transactions of the Commissioners, the imperfect situation of those documents in several particulars, and the complicated nature of the inquiry, will prevent the committee from presenting to the House that full view of the subject which

was desired. They deem, it, however, their duty to submit the result of their inquiry, so far as the same has been made.

By the general account of receipts and expenditures, hereunto annexed, it appears that the Commissioners have expended more than one million of dollars on various subjects, which are partially detailed in that statement. Whether those expenditures have been made with economy, or not, it is not necessary for the committee to decide, as the House will possess the same information which the committee possess on this point. It may, however, be proper to remark that the principal objects of expense have been the Capitol, the President's house, and the two buildings erected for the accommodation of the Executive Departments; and that the situation of those buildings, being under the eye of every member of the Legislature, cannot want a particular description.

As large as these expenditures have been, it is understood that the accounts of the Commissioners have not been regularly audited by any public officer, but have rested on their own statements.

By the report made by the Commissioners to the President of the United States, and by him transmitted to Congress during the present session, it appears that the site of the City of Washington was conveyed by the original proprietors to certain confidential persons, in trust, for certain uses which were defined in the deeds delivered to the trustees, a copy of which is annexed to the Commissioners' report; that the trustees have conveyed to the Commissioners, for the use of the United States, agreeably to the provisions of those deeds, the building lots which belonged to the public, and were laid down on the plan of the city, but that the trustees have declined to convey the streets of the city and the public squares and other grounds designated and appropriated for public uses.

The committee have thought it their duty to ascertain the causes which induced the trustees to refuse their deeds of this part of the public property; and, without pronouncing whether the trustees have conducted correctly or not, they understand that the trustees claim that they held these lands as well for the benefit of the proprietors as for the public; that the price allowed to the proprietors for those squares and public grounds being comparatively small, it was expected that these grounds should forever remain unoccupied, except by necessary public buildings; that the areas which they furnished should remain open for general convenience, and thereby increase the value of the building lots, and particularly those lots which adjoined those public grounds; that, under these impressions, and after receiving a remonstrance from some of the proprietors, they deemed it proper, in faithfulness to the parties concerned, to require that, before they made a conveyance of this property, the principle should be settled that the public grounds should not, after the same were conveyed, be converted by the Commissioners into building lots; that the Commissioners, however, declined establishing that principle, and claimed the right of converting such parts of the public ground into building lots as should be afterwards judged proper.

City of Washington.

The trustees further state that the plan of the city has been varied more than once, and that some of the public grounds which are delineated upon a plan which was engraved and circulated by the Commissioners as a true plan of the city, and is now in the hands of the members of the Legislature, have since been surveyed by the Commissioners into building lots; that, under these circumstances, the trustees did not believe that, in justice to the proprietors, they could convey these public grounds.

The committee have likewise understood that, in consequence of the contracts entered into with Morris, Greenleaf, and Nicholson, for the sale of a large number of the building lots belonging to the public, and the failure of payment on their part, and the subsequent transactions which have grown out of that contract, some doubts have been entertained respecting the titles to a considerable part of those lots. *These doubts*, whether well or ill founded, must necessarily embarrass the sale of those lots, and ought, in the opinion of the committee, to be removed by a law of the National Legislature to establish titles both in law and chancery, where lands shall be resold, under proper regulations, to raise the purchase money which shall fall due from the first purchaser.

The Commissioners undoubtedly possess much better means of judging of the value of the building lots belonging to the public than the committee; but it could not escape the observation of the committee that the actual sales which have been made for cash since the Board of Commissioners was established cannot, in their opinion, support the estimate which the Commissioners have made of this property; and, whatever may be the product of sales hereafter, the committee believe that the Government cannot rely upon that fund for completing the objects which the Legislature may deem necessary for the accommodation of Government.

The view which the committee have taken of this subject has been necessarily imperfect, but it

has satisfied them that, as the Executive Departments of the Government are now established at the City of Washington, the expense of the Board of Commissioners may very well be saved; that the business of that board may with propriety be transferred to the Treasury Department; and that it will be proper to require that the Commissioners account with the accounting officers of the Treasury for the moneys received and expended by them.

The committee likewise believe that a plan of the City of Washington ought to be prepared, and, at the next session of Congress, to receive the sanction of the Legislature, and means taken to obtain from the trustees a deed of the streets and public grounds, conformably to such plan, for the use of the United States; and that a law ought to pass for quieting titles in the District of Columbia, by authorizing the sale of lands contracted to be sold where the purchase money shall not be paid within the time limited for payment.

Conformably to the opinion herein expressed, the committee respectfully submit to the House the following resolutions:

Resolved, That a committee be appointed to prepare and report a bill to abolish the Board of Commissioners of the City of Washington, and to direct that the business of that board be transferred to the Department of the Treasury.

Resolved, That a committee be appointed to prepare and report a bill directing the Secretary of the Treasury, under direction of the President of the United States, to prepare a plan of the City of Washington, delineating the streets, squares, and public grounds therein, and to report the same to Congress, in December next.

Resolved, That a committee be appointed to prepare and report a bill to authorize the sale of lands in the District of Columbia, under proper regulations, to raise the moneys which may at any time be due and unpaid on contracts for the sale of such lands.

City of Washington.

Account of receipts and expenditures by the Commissioners of the City of Washington, District of Columbia, from the time of their appointment to the 18th of May, 1796; since which day accounts have been rendered half-yearly.

Cr.

Dr.

RECEIPTS.	Amount received.	EXPENDITURES.	Amount 1791.	Amount, 1792.	Amount, 1793.	Amount, 1794.	Amount, 1795.	Amount between Jan. 1 and May 18, 1796.	Total amount.
Donation by the State of Virginia	\$120,000 00	Capitol	-	-	-	-	-	-	-
Donation by Maryland	72,000 00	President's house	-	-	-	-	-	-	-
Sales of lots	173,109 91	City of Washington, (see note, next page)	-	-	-	-	-	-	-
Loan from the Bank of Columbia	30,000 00	Commissioners' Office	-	-	-	-	-	-	-
Leonard Harbaugh, refunded by him for part of the cost of the stone bridge over Rock creek, in consequence of defective work	600 00	Surveying Department, (see note, next page)	-	-	-	-	-	-	-
John Dobson refunded, for part of sums advanced to him as a contractor for doing freestone work at the Capitol	1,810 51	Hospital for sick laborers	-	-	-	-	-	-	-
Materials sold, which were unfit for use, or not wanted for the public buildings.	917 62	Raffling account, (see note, next page)	-	-	-	-	-	-	-
Dividends on shares in Bank of Columbia originally subscribed for by the Commissioners	1,833 50	Bridge over Tiber creek	-	-	-	-	-	-	-
		Wharf at the Eastern Branch	-	-	-	-	-	-	-
		Freestone quarries at Aquia, (see note, next page)	-	-	-	-	-	-	-
		Ground appropriated to public use	-	-	-	-	-	-	-
		Foundation stone quarry in the City of Washington	-	-	-	-	-	-	-
		Temporary buildings for workmen	-	-	-	-	-	-	-
		Wharf account	-	-	-	-	-	-	-
		White oak swamp, (see note, next page)	-	-	-	-	-	-	-
		Brick buildings	-	-	-	-	-	-	-
		Brick making account, (see note next page)	-	-	-	-	-	-	-
		Causeway account	-	-	-	-	-	-	-
		Provision account	-	-	-	-	-	-	-
		Stone wharf at Stone bridge	-	-	-	-	-	-	-
		Stone bridge at the mouth of Rock creek, (see note, next page)	-	-	-	-	-	-	-
		Canal from Tiber creek to James's creek	-	-	-	-	-	-	-
		Utensils of various kinds	-	-	-	-	-	-	-
		Post road through the City of Washington	-	-	-	-	-	-	-
		Engraved plans of the city and territory	-	-	-	-	-	-	-
		Drawbridge over Rock creek	-	-	-	-	-	-	-
		Advances on account to contractors for freestone, timber, and bricks	-	-	-	-	-	-	-
		Shares in the Bank of Columbia, being part of 2,000 originally subscribed for, all of which have since been sold; but a part of the purchase money of those last sold was not due on the 18th of May, 1796	-	-	-	-	-	-	-
		Advanced on a contract for Indian meal, of which partial deliveries have been made, but the quantity is unknown, no account having been rendered by the contractor: suit depending	-	-	-	-	-	-	-
		Supposed errors and commissions made in the year 1795	-	-	-	-	-	-	-
		Cash in the Commissioners' hands on the 18th of May, 1796	-	-	-	-	-	-	-
			\$3 00	\$49,375 24	\$77,598 13	\$297,854 99	\$137,613 27	\$10,535 50	\$406,261 84

City of Washington.

Recapitulation of the foregoing Account.

RECEIPTS.	Amount received.	EXPENDITURES.	Amount from 18th May, 1796, to 18th Nov. 1796.	Amount from 18th Nov. 1796, to 18th Nov. 1797.	Amount from 18th Nov. 1797, to 18th Nov. 1798.	Amount from 18th Nov. 1798, to 18th Nov. 1799.	Amount from 18th Nov. 1799, to 18th Nov. 1800.	Total amount.
Receipts for semi-annual accounts rendered -	\$640,905 52	Expenditures per semi-annual accounts rendered -	\$115,836 73	\$160,847 68	\$122,798 61	\$116,157 24	\$115,304 91	\$630,945 17
Receipts per foregoing account -	406,261 84	Expenditures per foregoing account -	-	-	-	-	-	405,947 95
		Cash in the Commissioners' hands, 18th Nov. 1800.	-	-	-	-	-	10,273 24
	\$1,047,167 36							\$1,047,167 36

Notes to the table on the preceding page.

City of Washington.—Includes commissions, discounts, recording squares in the district office, salary of a principal overseer, and all expenses of persons employed for general surveys.

Surveying Department.—Includes survey of the District and city, opening and ascertaining level of streets, purchasing and planting bound-stones, and registering and calculating squares, as divided into lots.

Rafting Account.—Expense of rafting the timber for the different buildings, and other public purposes indiscriminately.

Freestone Quarries at Aquia.—Six thousand dollars paid for the island containing these quarries, and balance for quarrying the stone and incidental expenses.

White-oak Swamp.—The Commissioners purchased the timber standing, had it cut down, and prepared for public use.

Brick-making Account.—The bricks were made and used for public purposes generally, and no particular account kept of the number used on the respective buildings.

Stone Bridge at the Mouth of Rock Creek.—Deducting the sums paid and secured to the public for ground ceded for the erection of this bridge twelve hundred dollars, refunded by the contractor for defective work, the real cost to the public will be only two thousand two hundred and eleven dollars and fifty-five cents.

(Errors and omissions excepted.)

COMMISSIONERS' OFFICE, WASHINGTON, February 6, 1801.

THOMAS MUNROE, Clerk Com.

*Books and Papers destroyed by fire in the War Department, in 1800.***BOOKS AND PAPERS DESTROYED BY FIRE
IN THE WAR OFFICE, IN 1800.**

[Communicated to the House of Representatives, February 17, 1801.]

WAR DEPARTMENT, Feb. 12, 1801.

The acting Secretary for the Department of War, in obedience to the direction of the House of Representatives, expressed in their resolution of the 2d instant, that he "communicate to the House such information as may be in his power in relation to the destruction of the books and papers in that Department by fire; designating particularly what description of books and papers has been lost thereby, and what the probable effect of such loss will be in the adjustment of the unsettled accounts of the United States," respectfully reports:

That he has very little doubt that the fire which, on the evening of the 8th of November last, entirely destroyed the house then occupied by the Department of War, was communicated from the adjoining house, as it was first discovered in the library, which was arranged against the partition wall directly behind the fire-place of that house, and at the distance of the whole width of the house (twenty-five or twenty-six feet) from the only fire-place in the apartment; in which last fire-place a fire had not been made on that day or for upwards of three weeks immediately preceding.

That the rapidity with which a large library extended the flames, on the admission of fresh air into the room, entirely precluded the possibility of saving any books or papers that were deposited on the second or third floor; the whole of the former, and one apartment on the latter, then being occupied as the Secretary's office.

That not a book or paper of the office was saved, except one volume, in which the contracts and deeds for lands sold to the United States were recorded. This had been taken into the Accountant's apartments, on the ground floor, in the morning, for the adjustment of some accounts, and was saved, with his books and papers which were in those apartments.

That, immediately after the fire, measures were taken to secure a renewal of the most necessary and important documents in all possible cases. That the lists of invalid pensioners have already been renewed, and sundry communications of importance from the Department returned and copied. That additions to these are still making, and that the examination of the claims to land for services in the Virginia line on Continental establishment, as directed by law, though now suspended, is expected soon to be in the usual state of progression.

That the library, which was entirely destroyed, was extensive, and contained many military works of celebrity, which it is scarcely expected can be replaced. In order, however, to effect so desirable an object as far as may be, the Secretary has added a proportionate sum to the estimated appropriation for the present year for the purpose.

That of the claims for Continental military

bounty lands, the entries of which were, by the act of 2d of March, 1799, limited to the 1st day of January, 1802, many still remain unsatisfied. That, from the manner in which the grants were made, the checks and books being all lost, a great difficulty will oppose the renewing issues of warrants for those lands. The Secretary has recommended to applicants that all claims be filed in the office before the day on which the above-mentioned limitation will take place, in order that the examination of them may thereafter be made under such regulations as may be judged most proper to secure to the claimants their lawful rights, and protect the United States as much as possible from fraud and imposition.

That it is not presumed that any consequences to effect the adjustment of unsettled accounts will follow from the loss of the papers of the Secretary's office, the original directions for expenditures being, it is supposed, to be obtained on the exhibition of the accounts growing from them; and it is not probable that any material injury will result from the losses sustained in the Accountant's office; the specification of which, with the remarks of the Accountant thereon, follows, viz:

Relating to the accounts of the old Army.

Several cases containing muster and pay-rolls; others containing accounts and vouchers of sundry paymasters and agents for paying troops; and one case containing individual settlements made by the late Paymaster General and Commissioner of Army Accounts.

These papers could only be of use in the examination of claims for services prior to the establishment of the present Government, which, if not already settled, are all barred and foreclosed by acts of limitation. The loss will, therefore, not materially affect the unsettled accounts of the United States.

Relating to services and supplies under the present Government.

William Colfax's accounts, as contractor for the State of New York, from the 1st of January to the 31st of December, 1799.

Robert Ball's accounts, as contractor for North Carolina, for supplies furnished in 1799 and 1800.

These accounts had been examined, and the balances ascertained, but had not been entered on the principal books, owing to differences in the statements of the claimants and those made at this office, of which they had been informed, but had not finally removed the objections. No material inconvenience, it is thought, will arise from the loss of those accounts.

William Colfax & Co.'s accounts, as contractors for the States of New York, Massachusetts, Rhode Island, and Vermont, from the 1st of January to 31st of December, 1800.

This account had not been examined; the amounts are, therefore, only known from the claimants' own statements when they were rendered. It is therefore thought that no settlement can be made until a principle shall be fixed for the settlement of accounts in this situation.

Nathan Starr's accounts, as contractor for fur-

Books, &c., destroyed by fire in the Treasury Department, in 1801.

nishing swords, belts, and scabbards, per contract in 1779.

This account had not been examined, owing to a want of vouchers. It is probable that duplicates of the accounts can be furnished, and that no inconvenience will arise in the settlement.

Part of the vouchers belonging to the Paymaster General's accounts.

Some of the muster and pay-rolls of this account were lost, but they can all be replaced. No inconvenience but that of having copies made from duplicates in the possession of the Paymaster General will arise.

All which is respectfully submitted.

SAMUEL DEXTER,
Acting as Secretary of War.

BOOKS, &c., DESTROYED BY FIRE IN THE
TREASURY DEPARTMENT, IN 1801.

[Communicated to the House of Reps., Feb. 23, 1801.]

TREASURY DEPARTMENT,
February 23, 1801.

SIR: In obedience to the resolve of the House of Representatives of the 2d instant, I have the honor of transmitting herewith the best information it is in my power to obtain, in relation to the destruction of official books and papers by the fire in the building occupied by the Treasury Department. To the enclosed statements from the other officers of the Department, I have the pleasure to add, that the books and papers belonging immediately to my office, with the exception of a few official letters and documents which can be replaced, have been preserved. It is not probable that any great public inconvenience will be the consequence of the unfortunate accident which gave occasion to the inquiry.

I have the honor to be, very respectfully, sir, your obedient servant,

SAMUEL DEXTER.

Hon. SPEAKER of the *House of Reps.*

TREASURY DEPARTMENT,
Comptroller's Office, Feb. 19, 1801.

SIR: In reply to your letter of the 4th instant, I have the honor to inform you, that after a careful and diligent examination, it does not appear that any records or documents appertaining to this office are missing in consequence of the late fire, from which any loss can result to the public, or to individuals. One book, in which sundry forms prescribed by this Department are recorded, has not yet appeared, though, as its destruction is highly improbable, expectations are entertained that it will eventually be found: if it should not, it can be replaced with some labor.

I have the honor to be, sir, with great respect, your obedient servant,

JOHN STEELE.

The Hon. SAMUEL DEXTER,
Secretary of the Treasury.

A list of books and papers destroyed or lost in the Auditor's office, in consequence of the fire which took place in the Treasury on Tuesday, the 20th of January 1801.

TREASURY DEPARTMENT,
Auditor's Office, Feb. 19, 1801.

1. The books containing copies of reports on all the accounts which have been adjusted since the establishment of the present Government, excepting those on the public debt funded at the Treasury, which being entered in a distinct set of books and kept in another room, were preserved. With the aid and expense of an extra clerk, the lost copies may be replaced, as the originals, with the statements and vouchers belonging to them, are deposited in the Register's office.

2. The books containing copies of various statements made by the Auditor and Accountants under the late Government. The originals of these are also in the Register's office, and new copies may be made from them, if necessary.

3. The ledgers and journals in which were entered the accounts settled by the late commissioner with the officers of the old quartermaster and commissary departments. The loss of these books adds to the difficulty of adjusting such of the accounts in these departments as remained open; but from examination which had been made, the greater part were found so defective as to leave little hope of a satisfactory statement. Some of them, however, though not passed, have been stated as far as the materials would admit. It is believed that few, if any, of the papers are lost.

4. The books in which were entered the accounts of the late secret and commercial committee. The papers being safe, no great inconvenience will result from the loss of the books, as few, if any of the transactions of this committee remain unsettled.

5. A number of claims exhibited by individuals, for services or supplies during the late war. Most of these had been presented in the first instance to the State Commissioners, and turned over by them to the Treasury. They had been all examined many years ago, and judged inadmissible; but as the register or list is gone with them, it is impossible to state the particular nature of each, or the names of the respective claimants.

6. An account rendered by the Bank of the United States, for the sale of 8 per cent. stock, under the last act authorizing a loan. A duplicate of this may be obtained.

7. An account of Hazen Kimball for the contingent expenses of the Office of State, which had been examined and was ready for stating. The vouchers cannot be replaced, but the particulars may be had from a book in which they were regularly entered by Mr. Kimball.

8. An account of Thomas Claxton, as agent for furnishing the Capitol. The vouchers had been all examined and found right, but the statement suspended until he should also render his account for furnishing the President's house, with which it had some connexion.

Fires in the War and Treasury Departments.

9. The accounts and vouchers of Tench Francis, late Purveyor of Public Supplies, for purchases from July 1, 1797, to the month of September, 1798, accompanied by a general account current, stated by his executors; in which they claimed a balance. The examination of these accounts was nearly completed, but the final settlement of them suspended from a wish to bring into view the balances for or against him with the Departments of War and Navy, with which his accounts were also in a course of settlement. Duplicates of the abstracts and (it is understood) of the vouchers also, can be furnished.

10. Three partial or subordinate accounts of Israel Wheelen, the present purveyor. Duplicates of all these have been already furnished.

11. The accounts of the following gentlemen, acting as agents for the commissioners of the direct tax, in their respective States:

Joseph Israel, Delaware; Nathaniel Gilman, New Hampshire; James White, Tennessee; Stephen Bayard, New York; Paul Zantzing, Pennsylvania; Thomas Davis, Massachusetts.

All these accounts, except the last, had been examined, and some of them, particularly the two first, would have been stated and passed the next day. The others were suspended, either for want of warrants, or some further explanation on particular points. As the vouchers, though much injured, are not entirely destroyed, it is probable that when they can be more thoroughly examined and properly arranged, they may be yet found sufficiently perfect to admit of settlement with at least some of the agents.

A few other accounts were also somewhat injured; but being still, however, in a state to be settled, a detail of them is deemed superfluous.

In addition to the foregoing, it is possible, and even probable, that in the course of business some other papers may be found missing, which are not recollected at this time; but none, it is believed, of much consequence.

R. HARRISON.

—
TREASURY DEPARTMENT,
Register's Office, Feb. 19, 1801.

The Register of the Treasury, upon the communication of the Secretary of the Treasury, of the 4th instant, transmitting a copy of the resolution of the House of Representatives of the United States, of Monday, the 2d of February, 1801, begs leave to report:

That upon the alarm of the late fire in the house occupied by the Treasury Department, all the books and records of the United States appertaining to his office, and which were deemed of primary importance, were removed from the fire-proof rooms occupied by the Register; and that, upon their being replaced, it does not appear, after a minute examination, that any of the books and records of the United States in his possession at the time of the late fire sustained either injury or loss, excepting statements Nos. 8,961, 10,919, and 11,349, with their respective vouchers, which were in a part of the building exposed to the fire. The official re-

ports upon those three statements having been preserved, and the accounts thereof closed in the Treasury books, it is presumed no injury can possibly arise from the want of those destroyed documents. Respectfully submitted.

JOSEPH NOURSE,
Register of the Treasury.

—
TREASURY OF THE UNITED STATES,
February 19, 1801.

SIR: In answer to your letter of the 4th instant, I can assure you that my office has not suffered any injury of the least consequence by the late fire.

I am, with respect, your most humble servant,
SAMUEL MEREDITH,
Treasurer of the United States.

SAMUEL DEXTER, Esq.,
Secretary of the Treasury.

—
TREASURY DEPARTMENT,
Revenue Office, Feb. 13, 1801.

SIR: I have paid due attention to a notice from, the House of Representatives, which you communicated to me on the 4th instant.

I have the satisfaction of assuring you that the books are all safe, and that I know of no paper missing from this office which can impede or in any manner affect the adjustment of the public accounts.

I am, with perfect respect, sir, your obedient servant,

WILLIAM MILLER,
Commissioner of the Revenue.

The Hon. SECRETARY OF THE TREASURY.

—
GENERAL STAMP OFFICE,
February 23, 1801.

SIR: In obedience to your request and the resolution of Congress on the 2d current, I have the honor to report, that I have been fortunate enough to reclaim all the papers belonging to the General Stamp Office, of any consideration, and that the public will sustain no material injury in this office by the unfortunate fire.

I am, with the most perfect respect and esteem, sir, your most obedient and most humble servant,

JOSHUA JOHNSON,
Superintendent of Stamps.

SAMUEL DEXTER, Esq.,
Secretary of the Treasury.

—
FIRES IN THE WAR AND TREASURY DEPARTMENTS.

[Communicated to the House of Reps., Feb. 28, 1801.]

Mr. NICHOLAS, from the committee appointed to inquire into the causes of the late fires in the War and Treasury Departments, made the following report:

That they have taken the depositions of all the persons from whom they had reason to expect any information, and herewith report them: those

Fires in the War and Treasury Departments.

marked A relate to the fire in the War Office, and those marked B to the fire in the Treasury Department.

The committee having seen an assertion in a paper called the *Cabinet*, that, during the fire in the Treasury Department, persons were discovered in one of the rooms of that Department, in circumstances which excited suspicion, the committee called on the editor of that paper, and requested to be informed whether he could mention the names of any persons who were witnesses of that fact, or any other relating to the fires. By him they were referred to Lawson Pearson and Salem Roe; from whose depositions, and the deposition of John Woodside, (among the papers marked B,) it appears that the persons thus discovered were clerks of the Department employed in taking care of the books and papers.

It having been mentioned in the depositions of some of the witnesses, from whom the committee were taught to expect material information, that Mr. Oliver Wolcott, late Secretary of the Treasury, was seen at one end of the Treasury Department, during the fire therein, loading a cart with boxes and papers, the committee considering it as a circumstance which might be made to excite suspicion, and believing it was due to Mr. Wolcott to investigate thoroughly a fact of this nature, which had been partially disclosed by their means, have taken several depositions on that subject, which are herewith reported, marked C. From these depositions no suspicion can remain that the boxes and cases were not Mr. Wolcott's private property.

The committee do not think it necessary to make a minute report of their opinion on the facts of these several cases, as the depositions themselves will afford more satisfactory information: they report, as the general result of their inquiries, that it is probable the fire in the War Department was communicated from the fire-place in the adjoining house, and that there is no evidence whatever on which to found a suspicion of its originating in negligence or design; that, as to the origin of the fire in the Treasury Department, they have obtained no evidence which enables them to form a conjecture satisfactory to themselves: it would only be in their power to make an abstract of the testimony; and, in doing this, they might add to or diminish its force: and therefore choose to report it only in the words of the witnesses themselves.

A.

Mr. Loring, a clerk in the War Department, states, that, on the day of the 8th of November, 1800, (the evening of which the office was burnt,) he was engaged in filing and arranging the papers of the office, (which were very much deranged in consequence of removing first from Philadelphia, and afterwards from the store, commonly known by the name of Lear's store, in the City of Washington,) a business in which he had employed all his hours which were not immediately necessary for the routine of business common in the office;

that, having on that day nearly finished, he had determined to continue until he had completed the work, as he was anxious to have them arranged; that, in consequence, he remained an hour or an hour and a half after the other gentlemen of the Department had left it; that when he had finished the business he was engaged in, which was after three o'clock, he locked the door of the room, and carried the key thereof into the room of the messenger, which was in the kitchen; that the day having been uncommonly warm for the season, the fire had been reduced at about 11 o'clock in the morning, and that the door which led into the room usually occupied by the Secretary was ordered by the chief clerk to be opened in order to admit fresh air, (there having been no fire in that room on that day, or for three weeks and upwards prior to it;) that no more fire was made in the room in which he was employed that day; and that, when he left the room, he doubts whether there was fire enough on the hearth to have lighted a candle; that he went home to dine, and believed everything was perfectly secure in the office, as he looked into the Secretary's room to see if the windows were shut, and finding them to be so, he doubted not everything was safe; that, in the evening, about (he believes) six o'clock, or perhaps a little after, Mr. Brown, a clerk to the Accountant, came over to his lodgings and informed the gentlemen that the War Office was on fire; that Mr. Wolcott, and every other man in the house immediately ran over; that, when we approached the house, we observed the light very strong from the window over the door of the entrance of the house immediately adjoining the library, which was arranged along the partition wall of that building, and the adjoining house occupied by Mr. Jackson, and against which the chimney of Mr. Jackson's house stood; that he, with Mr. Wolcott, went immediately up stairs, and he, Mr. L., being first, opened the door of the room generally occupied by the chief clerk, viz: (the room immediately in the rear of the Secretary's, the one which was on fire;) that, when he opened the door, the force of the smoke was so great as to stagger him; he, however, recovered himself, and made a second attempt, but to no purpose; finding it impossible to save anything on that floor, he immediately left the house and went to the Treasury office for the engine, which, with assistance, he brought to the fire; but the house being in such a state, it proved ineffectual. That, on the morning after the fire, (Sunday,) he went over before breakfast to examine the partition wall; that he ventured as near as the walls, which were then tottering, would admit, and examined particularly as to the structure of the chimney; that, in viewing the partition wall, he did not doubt the fire was communicated from the chimney of the next house, as the partition wall was very thin, and the evident appearance of wooden blocks or bricks interspersed in it; and that it appeared to him that the wall was only the thickness of the length of a brick from the first floor to the second, and the thickness of the width of a brick from the second floor up to the roof; and knowing that a

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large library was extended along that wall; and upon the lower shelf of the library, about eight inches from the floor, stood a number of large volumes, behind which (for convenience) many pamphlets and loose papers were thrown; and he has no hesitation in saying, that he firmly believes it was from these causes that the fire was communicated.

With respect to the Treasury Department, Mr. L. has very little to say, which can give information or throw light on it; he has only to observe, that at about five o'clock in the evening of the — January, he, agreeably to an appointment he had made with Mr. Steele, left the hotel in which he lodged, directly opposite to the Treasury, to call for Mr. Steele, who was writing in his office; that, as he crossed the street, he saw large columns of smoke issuing from the two southeast chimneys of the office; he immediately entered the east door, which led to the centre of the building, through a narrow passage; that, in passing through this passage, he observed the smoke issuing from under the two first doors on the left side of the passage; that he did not stop to open either of them, his object being to get the engine out which stood in the hall; that not more than two or three persons were with him at the time, and that, with the assistance of one of them he broke open the front door and put the engine into the street. Immediately on doing this he returned into the passage, where he discovered several persons forcing the middle door, (or that which led to Mr. Ferrall's room,) which they immediately succeeded in. As soon as the door was opened, the flames and smoke rushed out in a diagonal line from the back of Mr. Ferrall's room, where his cases stood, which was the part of the room opposite to his fire-place. This is all he can say respecting it, as his whole attention and exertions were to check and conquer the flames; which, with great exertions, on all sides, was finally accomplished.

Sworn before me, the subscriber, one of the justices of the peace for Prince George's county, this 23d day of February, 1801,

RICHARD FORREST.

On the evening of 8th November last, about seven o'clock, P. M., I was alarmed with the cry of fire, and on inquiry it was the War Office; I immediately alarmed Mr. Hodgson and Mr. Wood, and desired them to bring with them buckets, and I unhung my garden gate, that free access might be had to my pump; I gave orders to fill all the buckets and tubs that were about the house, and took with me two buckets of water; when I got to the War Office the smoke was issuing out of the front windows like a cloud; soon afterwards the flames broke out of the front window over the front door; I was then asked by Mr. Watson, a clerk, to assist him in getting a ladder, but before we could procure the ladder the fire broke out of the back side of the house. I assisted about half an hour to save the papers, but on seeing that my own house was in danger, I left the fire and went home. The next day (Sunday) I went to see Mr.

Markward, to make inquiry how the fire originated, (Col. Burrows went with me;) he, Markward, could give us no satisfaction; we then went to the burnt house, and, on examining the walls, were of opinion that it had been communicated from the back of Mr. Jonathan Jackson's chimneys to the library; and, on further examination, we saw a number of places where wood had been let into the wall; and nearly at the back of the chimney of Mr. Jackson's house I saw a light through the wall, (and mentioned it to Col. Burrows,) which I suppose was the place that the fire got through to the library; and was further convinced, for the back part of the place is but four and a half inches thick. And further this deponent saith not.

WM. O'NEALE.

CITY OF WASHINGTON, Feb. 25, 1800.

The above deposition was taken by the committee, this 25th February, 1801; Wm. O'Neale being first sworn.

JOHN NICHOLAS, *Chairman.*

Thomas Y. Sprogel, being first sworn, deposes and saith that at about three o'clock, P. M., of the day on which the War Office was consumed, he assisted in laying out the corpse of a Mr. Jackson, who died in the room adjoining to the room occupied by the Secretary of War, in which the fire appeared to originate; that at that time there was so little fire in the hearth, that he, this deponent, could with difficulty burn vinegar enough to correct the effect of the body on the air of the room. That while the house was on fire, he returned into the room where the corpse was laid, and found the fire totally extinguished to all appearance; that he was informed a fire had been kindled in the interval of his two visits to the room, and that it had been extinguished because it had a bad effect on the corpse. THOS. Y. SPROGEL.

Sworn to before me, this 27th day of February, 1801.

JOHN NICHOLAS, *Chairman.*

B.

The testimony of Patrick Ferrall, principal clerk in the office of the Auditor of the Treasury, relative to the fire that took place on the 20th January last.

Having received a letter by the mail of the 19th from a mercantile house in Philadelphia, that required an answer by the return of post, not being enabled from the official duties of the office to write the answer during office hours of the 20th; on leaving the office between two and three o'clock, and not seeing Fogel, the messenger, in the hall, I mentioned to one of the other messengers to inform him when he came in to leave the key, as I should be back after dinner to write a letter. I returned between three and four o'clock, and found the key of the Auditor's room, which I opened and went into the room usually occupied by me, and wrote my letter; after which I locked the door, and went to the house occupied by the messenger, delivered him the key and the letter,

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desiring him to leave it at the post office before five o'clock. At my going in, and during my stay in the office, I observed not the least appearance of fire, but what was in the fire-place of the room where I was writing, which at the time was very low, being the remainder of that made in the early part of the day. After delivering the key to the messenger, I went over to a house in the neighborhood where a billiard-table is kept, where I remained, until the cry of fire was heard; when the whole of the persons that were there ran over to the office. On my entrance, finding the doors locked, I called on the messenger by name, who immediately appeared and delivered me the key of the Auditor's room, which I unlocked, and made to the door that opened into the room in which I had been writing; on opening which the smoke and flames gushed out with such violence, that I had nearly been suffocated. On which I returned into the entry and requested some persons that were there to break open the door; on this being done, I clearly perceived that the great body of the fire proceeded from three large cases, which were placed back of the fire-place in the room occupied by the Auditor. How or by what means this unfortunate accident took place, I do not deem myself competent to decide; but this I will say, I had neither hand nor deed in it.

P. FERRALL.

Sworn to before me, this 23d day of February, 1801.

JOHN NICHOLAS,

Chairman of the Committee.

The representation of Albright Fogle, Messenger to the Auditor's Office, respecting the fire which took place in the Treasury Department on the 20th of January, 1801.

The Auditor left his room on that day a little before two o'clock, when the fire in his fire-place was reduced so low that the ashes covered it close up, over which I placed the fender.

Mr. P. Ferrall left his room at about half past two o'clock on the same day, when his fire was also low. I covered it immediately with the fender, and locked the doors. The key leading to Mr. Ferrall's room was then, by his request, put into a certain place where he could have access to it after dinner.

I returned to the room about half after four o'clock, and found Mr. Ferrall writing at his desk; I inquired of him if I should put a stick on the fire, which he refused. About twenty minutes before five o'clock he called on me at my house, delivered me the key of the room and a letter, requesting me to put it in the post office; I then hastened to the office, examined the fire in the Auditor's room, raked up the remains of that in Mr. Ferrall's, covered it with the fender, and secured the windows and doors; at which time everything appeared, as usual, very safe from fire. About dusk, and some time after my return from the post office, I heard the first cry of fire; and, on opening the door of the Auditor's room, I did not perceive any fire, but a vast quantity of smoke came out, which prevented an entry at that time;

the door of Mr. Ferrall's room was then forced open, when the large cases and furniture in it, which stood close to the wall adjoining the Auditor's room, were all on fire; at that time I did not perceive anything on fire at the other end of the room, near the fire-place.

ALBRIGHT FOGLE.

Sworn to before me, this 23d of February, 1801.

JOHN NICHOLAS, *Chairman.*

JOHN WOODSIDE, clerk in the office of the Comptroller of the Treasury of the United States, upon his oath, deposes: That on the 20th day of January, 1801, having left the office about half past four, P. M., and gone to his place of lodging, about one hundred paces west of the building occupied by the Treasury Department, it being between sundown and dusk, approaching nearer the latter, when the deponent heard the cry of fire; upon which he immediately ran to the Treasury, from whence he saw smoke proceeding; and, upon his nearer approach, saw the smoke and flame issuing from the windows or window of the room occupied by the principal clerk in the office of the Auditor, which room is adjoining to the Auditor's, the latter being in the southeast part of the building.

The weather for the season had been moderate, as to cold, for a day or two preceding; but in the afternoon of the said 20th day of January, the wind had changed, and blew, especially at the time of the fire, cold and violently from the north-west.

The deponent, finding that the apartment in which the fire had commenced was all in flames, seeing sundry persons engaged in getting the engine ready, and not doubting the immediate assistance of other citizens, considered it most for the interests of the people to endeavor to save the books and papers in the two apartments up stairs of the office to which he was more immediately attached, viz: the Comptroller's, and that of his principal clerk, the latter being immediately over the one in flames; and therefore proceeded to these apartments as soon as they could be opened.

Early in the morning of the 21st, the day after the fire, as soon as there was light, the deponent, living in the vicinity, attended at the Department with a view to collect what papers might be found in a scattered state; and, before sunrise, went to the apartment where the fire had begun, and found the fender in the fire-place, in such a state as to lead, from appearances, to the conclusion that the fire had been carefully covered; the fender being somewhat in the form of part of a circle, the one edge resting upon the hearth, the other edge touching the back of the fire-place.

Since the fire, it having been proposed to the deponent to take the superintendence of the building, so far as respects the prevention of accidents by fire, he undertook the business confided to him; and, having been of opinion that the fire might have been communicated by the mantel-pieces, the deponent had an examination of one of the fire-places, upon which, apprehension of the probability of

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fire being communicated to the building thereby was not lessened; but, from the blocks placed in the jambs, for nailing the surbase and wash-board, being exposed to the fire of the flues of the chimneys from below, by sparks passing through open joints one quarter of an inch in width between the bricks, and these open joints being only about three inches from the block to the inner part of the chimney, additional ground was given to apprehend danger; as likewise from the blocks placed in the walls, immediately back of the fire-places, in the rooms in the east and west ends of the building.

These apprehensions were communicated to the Register of the Treasury, upon which orders were given to have removed every block or piece of wood, with the mantel-pieces, which might possibly endanger the building. In the execution of these orders, it was found that the blocks back of the fire-places, in the apartment occupied by the Commissioner of the Revenue, have the appearance of being in a degree scorched. In the same room, that is, the one adjoining the Commissioner's, a wedge of pine wood was taken out of the chimney jamb, which had been driven into an open joint between the bricks, which led directly into the flue of the fire-place in the room below. To this wedge the wash-board was nailed. The wedge was found burnt to coal at the end next to the chimney, and was scorched on the under part, the board nailed thereto having been also touched with fire.

In the room occupied by the superintendent of stamps an open joint was found, which led to the block to which the wash-board was fastened into the chimney of the fire-place below; this block did not appear to be scorched, but a quantity of soot had made its way through this open joint to the board to which the wash-board was nailed. The whole of the circumstances, taken together, afford just ground for very serious apprehensions of the liability of the place being set on fire by sparks, especially if the chimney should have taken fire.

Similar facts occurred in breaking out the blocks in the jamb of the fire-place in the room occupied by the Secretary of the Treasury, and in another apartment belonging to the said officer, adjoining to that of his principal clerk. Here the danger appeared to be much greater, as it did not arise from open joints leading eight or nine inches into the flues of the chimneys below, but from openings immediately from the blocks to the flues. In one instance, a hole an inch and a half in diameter was discovered, the block, &c. very much dried and smoked, if not scorched. In the other instance, several openings leading directly to the flue from the block to which the surbase was nailed, two pieces of bats lying between the block and the flue, which, not being close to each other, and having no mortar, caused the last mentioned openings, opposite to which the block and other wood appeared to be scorched, and the turpentine to have been extracted by the heat from the chimney.

In relation to the state of the room where the fire originated, the deponent saith that he made

a particular examination, and finds that the mantel-piece, except upon the south side, appears to have been burned or removed; that the blocks to which it was nailed appear to have been in part burnt on the outer surface next to the room, except one in a small degree scorched; that part of the mantel-piece on the south side of the fire-place, which remains standing, being burnt to coal upon the outside, which, if pulled down, the blocks to which it is nailed, it is supposed, will appear like those upon the other side of the fire-place, in some degree scorched or burnt.

In the said apartment, directly opposite the fire-place in the Auditor's room, there had been placed two blocks of wood, the uppermost fourteen inches in length, with two others upon a line, the right hand block four feet, the one on the left hand three feet and a quarter distant; these blocks were placed in the wall for the purpose of nailing the surbase thereto. The place where a block had been placed for nailing the wash-board is also back of the said fire-place, and nearly under the one already mentioned, and, like that, flanked upon the right and left with blocks, at the distances above mentioned; the block, from the opening in the wall, could not have been more than nine inches in length and five inches in width; the blocks upon the right and left of those back of the fire-place do not appear to have been burnt, except one upon the outside, next to the surbase, which appears to have been touched with fire.

The block behind the fire-place, to which the surbase was nailed, was burnt on the surface next to the room in which the fire originated, but that part of the said block which was within the wall had not any appearance of being scorched; the block immediately below, to which the wash-board had been nailed, the deponent did not see, as it was missing the first or second day after the fire, he having looked for it in the cellar, where he found the upper block.

The thickness of the wall back of the said fire-place is thirteen inches, by measurement, and deducting five inches, the width of the block, or rather depth of the place where it would appear a block had been, leaves eight inches brick between where the block had been and the fire in the Auditor's room; the joints between the bricks in the back of said fire-place appear to have been filled with mortar, except one joint about three-sixteenths of an inch wide, into which a piece of wood of that thickness can be inserted four inches, leaving, from the inner part of the joint, and the space which had been occupied by the block upon the opposite side, a thickness of four inches brick.

This deponent, on being asked, further saith, that he can discover no way in which the fire could have communicated from the fire-place in the Auditor's room to Mr. Ferrall's room, unless it was by the lower block to which the wash-board in Mr. Ferrall's room was nailed, which block was not to be found at the time this deponent examined the place.

JOHN WOODSIDE.

Sworn to before me, this 24th February, 1801.

JOHN NICHOLAS,
Chairman of the Committee.

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On a further examination, the said John Woodside says that he was employed in the first room on the left-hand side of the passage, on the second floor of the Treasury Department, which leads to the east end, at the time the door was forced open; and that he was endeavoring to remove the books and papers into the fire-proof room adjoining; that he believes several other persons were also employed in the same way with him at the time.

CITY OF WASHINGTON, Feb. 24, 1801.

On the evening of the 20th January, 1801, as I was going to Dr. Cunningham's, on business, I saw a great smoke arising near the President's House. I directly called fire! Mr. Cunningham was in his yard, and asked where; I answered on the President's square. He replied that it was shavings; I said no; then we both ran. I got to the Treasury Office first, and found it on fire; (it was between sunset and dark,) and the alarm of fire was general, and the bells were ringing. I called for buckets, and to man the pump at the north end of the building, which was soon done, and water passed as long as there was any to be had. When the pump sucked, I went to the south side, and began to form a line to Mr. Blodget's pump; this being done, I returned to the north side, and proposed to convey water into the rooms where the fire was; after some time the fire began to abate, and I went to Mr. Ferrall's room door and began to throw water where the greatest appearance of fire was; and after some time the room got dark, I got a candle to see if I could discover where the fire originated. I felt on the floor near the fire-place, and it was not burnt; I then felt several other places, and, on feeling near the jamb of the door leading from Mr. Ferrall's room to the Auditor's, in the recess of the said door, I put my hand on a hickory chunk about twelve or fifteen inches long, and about three inches in diameter; it appeared to be burnt at one end to a coal; there was bark on one end. I think it was hickory; it might not have been hickory, but I think it was. I then said that the building was set on fire by some evil-disposed person. About this time it was said that the building was on fire up stairs; I ran to give my assistance, met Mr. Wolcott, and requested him to give some directions concerning the papers; Mr. Wolcott said he had nothing to do with them, that he was not the Secretary, and it was as much as he could do to take care of his own private property. I went up stairs, and Mr. Woodside gave me a quantity of books and papers to carry down stairs, which I delivered to Mr. Dawson, and told him that I was of opinion that the building was set on fire, and that I had found a chunk in the recess of the door of Mr. Ferrall's room. On my return up stairs I met Mr. Wolcott, and said for God's sake, Mr. Wolcott, give some directions; he told me he would introduce me to Mr. Dexter, who would give me the proper directions, which he did. Shortly afterwards, an alarm of fire took place in the cellar, and I got water carried down and put it out in a short time. On examination, it was found that the fire had found its way between

the floor and the counter-ceiling, and it was proposed to tear up the floor, which was done, by Mr. Dexter's orders; and further this deponent saith not.

WILLIAM O'NEALE.

On being asked, the deponent saith that the floor was burnt through about the place where he found the piece of wood which he has before mentioned.

The above deposition was given by William O'Neale, before the committee; he being first sworn, this 25th February, 1801.

JOHN NICHOLAS, *Chairman.*

Thomas Y. Sprogel, being first sworn, deposeeth and saith, that, after the fire in the Treasury Department, he was employed by Mr. Nourse, the Register, to watch in the office: and that about twelve o'clock at night, he discovered a wooden block behind Mr. Harrison's fire-place, in Mr. Ferrall's room, to which the wash-board had been nailed, to be on fire; that he extinguished the fire with water, and that it appeared to him to be burning from Mr. Ferrall's room, and towards Mr. Harrison's fire-place; that the block appeared to be about half consumed; that soon after he understood, from the conversation of persons present, that they had taken out the block and found the end next Mr. Harrison's fire-place untouched by fire, but did not see the block himself; that the fire in Mr. Ferrall's room appeared to have been perfectly secured, and that he is very well satisfied that the fire did not proceed from that fire-place.

THOMAS Y. SPROGEL.

Sworn to before me, this 27th day of February, 1801.

JOHN NICHOLAS, *Chairman.*

I, Jonathan Freeman, testify, that I was at the Treasury Department about sunrise on the day after the fire happened at that place. In the room which was the most damaged I observed the strongest marks of fire, on the side of the room opposite to the fire-place, in the wall on this side, directly (as it appeared to me) opposite to the fire-place in the Auditor's room, near the floor, were two holes in the wall, in which had been placed wood for fastening; in the largest and lowest of those holes were some coals, and ashes, and such marks of fire as induced me to suppose that the wood had been consumed there; and the strongest marks of the fire were at the end of the hole next to the opposite room; from which I was led to believe that the fire was communicated from the fire-place in the Auditor's room, by means of a block or wooden brick, which appeared to have been in the lowest of the above-mentioned holes, and to which the wash-board or surbase of the room where the fire broke out had been fastened.

JONATHAN FREEMAN.

Sworn to before me, this 28th day of February, 1801.

JOHN NICHOLAS, *Chairman.*

Fires in the War and Treasury Departments.

Lawson Pearson, being first sworn, deposeth and saith, that he came to the Treasury Department when the fire was at its height; that after assisting an acquaintance in emptying a room, which was in danger, of the things in it, he went up stairs, and turned into the passage running to the east, and he discovered a light through the key-hole of the door of the first room on the left hand; that, supposing the room was on fire, he forced the door open, and discovered three men with a number of papers before them; that the candle was extinguished either by the sudden opening of the door or some other cause; that, on his proposing to remove the furniture, he was advised by one of the persons to throw it out of the window, which he refused, as being likely to destroy it; that the persons in the room discovered no embarrassment on its being opened. He further saith that he laid the bricks in the east end of the Treasury Department, and that after the fire he examined the wall between the Auditor's room and the room which was on fire, and could find no reason to suppose that the fire had been communicated from the Auditor's fire-place; that there was the length of the brick between the fire-place and the wooden bricks in the opposite room, and that there was no appearance whatever on the brick or mortar of the wooden brick to which the wash-board was nailed having been burnt; that the wooden brick last mentioned had been removed when he examined, which was the day after the fire. He further saith that he assisted in the examination which has taken place of the fire-places in the Treasury Department, and that a number of blocks have been taken out which were touched by fire, but that none of them were as far from the fire-places as those behind the fire-place in the Auditor's room, and that none which were touched by fire, which he has seen taken out, were more than four inches from the fire.

LAWSON PEARSON.

Sworn to before me, this 25th day of February, 1801.

JOHN NICHOLAS, *Chairman.*

Salem Roe, being first sworn, deposeth and saith, that he was in company with Lawson Pearson when he forced open the door mentioned in his deposition, and that he saw two or three persons sitting in the room; that they proposed to remove a case of papers, and were told they should not, unless they would throw it out of the window; that they, notwithstanding, took it up and carried it down stairs.

SALEM ROE.

Sworn to before me, this 25th day of February, 1801.

JOHN NICHOLAS, *Chairman.*

C.

Having been in Georgetown at the time the fire was discovered in the Treasury Department, I did not arrive there until it had made some pro-

gress; my immediate concern was to see after the papers, as from the appearance of the flame I thought it impossible the building could be saved. On my going to the west end of the department, where the greatest number of boxes and cases of papers were placed, a carman came up and inquired for Captain Coyle, who, he said, had desired him to convey away a parcel of papers; not knowing what authority Coyle had to issue any directions concerning the removal of papers, my curiosity was excited to such a degree as to keep me on the spot where the records were; in a short time after Oliver Wolcott made his appearance, in company with Coyle, and began to load the cart which was there with chests of papers; being surprised at this conduct, and in order to aid any evidence which should in future be called for, I looked for and imparted my information to Mr. Kramer, who immediately repaired with me to the place, and expressed his astonishment at seeing Oliver Wolcott so extremely attentive to the carrying away of papers, when the department appeared in imminent danger of being destroyed.

THOMAS WATERMAN.

Sworn to before me, this 23d day of February, 1801.

JOHN NICHOLAS, *Chairman.*

The night on which the fire was discovered at the Treasury Department I was in Georgetown, in company with several friends, when a person came to the door of the house in which we were, and gave the alarm; on which we proceeded to the Treasury Department, and I joined the ranks to hand water. The night being somewhat cold I left said station, and went into the house to assist in getting out and securing the papers; when Mr. Waterman informed me that some persons were busy in taking from the department a number of cases, &c., with papers. I went with him to the place and saw two carts, one of which had a number of cases loaded up, and Mr. Wolcott, and Captain Coyle, a clerk to the Secretary of the Treasury, appeared to be busy in assisting to load one of the carts.

HENRY KRAMER.

Sworn to before me, this 23d day of February, 1801.

JOHN NICHOLAS, *Chairman.*

John Coyle, of the City of Washington, being duly sworn on the Holy Evangelists of Almighty God, doth depose and say, that on or about the 20th day of January, 1801, at about half past five o'clock, P. M., when the alarm was given that the Treasury Office was on fire; in going towards said office he overtook Oliver Wolcott, Esq., late Secretary of the Treasury, who observed to this deponent, that he was very much interested in saving his private papers, as the justification of all his official transactions depended on that circumstance, and requested his assistance to effect that purpose, if possible; that he went with Mr. Wolcott into the northwest room of the building,

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where Mr. W. pointed out a chest of about four feet by one foot six inches; a trunk of about three feet four inches by one foot six inches; two boxes of about two feet by thirteen inches, and a small writing desk, already packed and locked, as those containing his private papers: these this deponent assisted in removing out of the house. Mr. Wolcott also requested the removal of an iron chest, as he said it contained valuable public property and documents. He also requested me particularly to assist in removing Mr. Miller's books and papers generally, as they were very important; which I did, and observed Mr. Wolcott active in assisting, and appeared very anxious for their preservation.

He then observed that it was his intention to have his papers removed to his lodgings in the course of two or three days if the fire had not happened, and as they were then exposed, he wished to have them taken there.

This deponent then went to the sign of the Black Horse, where he knew carts were to be hired, and engaged one. As it did not arrive soon, he went to the front of the house and observed an empty cart, employed the owner, and brought him to where the trunks, &c., were. Mr. Wolcott then went into the house and cellar to observe the state of the fire, returned, and reported that the danger was apparently over.

Mr. O'Neale then came up and requested Mr. Wolcott's orders respecting the removal of papers. Mr. W. replied he would give no orders, but would introduce him to the Secretary of the Treasury, who was the proper person; this was done, and the orders given. Mr. O'Neale then demanded his assistance as Secretary of the Treasury. Mr. W. replied, I am not Secretary of the Treasury. Mr. O'Neale then said, you are a citizen, and I demand your assistance to save the public property. Mr. W. replied, I cannot; I must take care of my private property.

This deponent and Mr. Wolcott had previously examined the state of the fire, and concurred in opinion that the danger was all over; the fire appeared completely subdued, and any further removal we conceived to be superfluous. We then had loaded into a cart the before-mentioned chest, &c., with the addition of an iron box, which Mr. Wolcott said contained valuable public documents, and did it as a measure of safety.

The cart then drove to the house of said deponent and unloaded. The iron box was returned in safety to the Treasury Department in the course of a day or two following.

JOHN COYLE.

Sworn to before me, this 25th day of February, 1801.

JOHN NICHOLAS, *Chairman.*

Bazil Wood, of the City of Washington, doth, upon the Holy Evangelists of Almighty God, depose and say, that on the 20th of January last, and in the evening of the same day, during the fire which commenced in the evening aforesaid in the Auditor's office of the Treasury Depart-

ment, he, this deponent, saw several chests and boxes containing books and papers belonging to Oliver Wolcott, Esq., late Secretary of the Treasury; that this deponent did not then, nor has he since seen the papers then contained in the said boxes; but for some time previous to Mr. Wolcott's resignation, he did prepare, and cause to be prepared, copies of various public documents and records in his office; that this deponent did several times assist the said Mr. Wolcott in removing these papers into Mr. Miller's room, which Mr. W. occupied for a few weeks, and from which the before-mentioned chests, &c., were, as before said, removed on the evening of the fire; that he verily believes there was not a single original document removed, or a paper which was not recorded taken away from the office by Mr. W. This deponent asserts that the space which the papers intended to be taken away by Mr. W. could not be less than four feet square at least, and the person (to wit, Robert Jones Heath, one of the clerks, who examined the rough draughts of letters and other documents, being sick,) this deponent can only further say, that he believes the said Heath could give particular information as to the papers, &c., which he examined and delivered to Mr. Wolcott. Mr. Wolcott received from this deponent no papers, or copies of books or papers, other than the weekly state of balances, of which the records are now in this deponent's possession. The kinds of papers which Mr. Wolcott intended, or said he intended to take were, the rough draughts of his own public letters and the copies of several reports to the various departments, printed journals of Congress, printed reports of the different departments to the President and Congress, copies of weekly statement of balances, the annual statements of receipts and expenditures of the United States: and further this deponent saith not.

Sworn to before me, this 27th day of February, 1801.

JOHN NICHOLAS, *Chairman.*

OFFICIAL CONDUCT OF GOV. SARGENT.

[Communicated to the House of Reps., Feb. 19, 1801.]

MR. CHAUNCEY GOODRICH, from the committee appointed to inquire into the official conduct of Winthrop Sargent, Governor of the Mississippi Territory; and to whom also was referred the petition of Cato West and others, made the following report:

In the above-mentioned petition, the administration of Governor Sargent is criminated on the ground of improper and arbitrary misbehaviour; of an unconstitutional exercise of the legislative authority by the Governor and Judges, and of unlawful exactions of office fees.

First. Of improper and arbitrary misbehaviour.

As the particular instances and acts of improper and arbitrary misconduct imputed to Governor Sargent are not specified, nor evidence adduced whereby to verify the general charges alleged

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against him, your committee have not been able to investigate them. Such papers relative thereto as have come to their possession accompany this report.

Second. Of an unconstitutional exercise of legislative authority by the Governor and Judges.

On this point it is alleged that the Governor and Judges have made and published laws not derived from the codes of the original States.

By Governor Sargent this fact is admitted.

The President of the United States, by the act entitled "An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a Government in the Mississippi Territory," was empowered to establish there a Government, in all respects similar to that exercised in the Territory Northwest of the river Ohio, excepting and excluding the last article of the ordinance made for the government thereof by the late Congress, on the 13th of July, 1787.

In the ordinance referred to in the aforesaid act, are the following clauses:

"The Governor and Judges, or a majority of them, shall *adopt* and *publish* in the district, such laws of the original States, criminal and civil, as may be necessary and best suited to the circumstances of the district, and report them to Congress from time to time: which laws shall be in force in the district until the organization of the General Assembly, unless disapproved by Congress; but afterwards, the Legislature shall have authority to alter them as they shall think fit. The Governor for the time being shall be commander-in-chief of the militia; appoint and commission all officers in the same, below the rank of general officers; all general officers shall be appointed and commissioned by Congress. Previous to the organization of the General Assembly, the Governor shall appoint such magistrates and other civil officers in each county or township, as he shall find necessary for the preservation of the peace and good order in the same. After the General Assembly shall be organized, the powers and duties of magistrates and other civil officers shall be regulated and defined by the said Assembly; but all magistrates and other civil officers not herein otherwise directed, shall, during the continuance of the temporary Government, be appointed by the Governor. For the prevention of crimes and injuries, the laws to be *adopted* or *made* shall have force in all parts of the district; and for the execution of process, criminal and civil, the Governor shall make proper divisions thereof; and he shall proceed, from time to time, as circumstances may require, to lay out the parts of the district in which the Indian titles shall have been extinguished, into counties and townships; subject, however, to such alterations as may thereafter be made by the Legislature."

Your committee are of opinion that the legislative power of the Governor and Judges, by virtue of the above mentioned ordinance, is restricted to the *adopting of laws from the codes of the original States*, and cannot be extended to the *making or enacting of laws not derived from those codes*.

It appears to your committee, that the Governor

and Judges of the Mississippi Territory misconceived the nature and extent of their authority in this particular. Justly to appreciate their motives, it is essential to state the principles on which they have acted. By them, the ordinance appears to have been understood as vesting in the Governor and Judges a plenary legislative authority. Governor Sargent justifies its exercise on the ground of construction, and of the principle being avowed and acted on by the Governor and Judges, in *making laws* in the Northwestern Territory; and its being impliedly if not directly sanctioned by Congress. In his letter of the 15th of June, 1800, to the Secretary of State, he observes, "upon the subject of *making or adopting laws*, I have written you largely heretofore. It is not necessary to repeat my own opinions; many letters in your office evince my anxiety to have possessed the codes of the original States. We began by legislating, however, with the laws of the Northwestern Territory; they had been long subject to the disapprobation of the honorable Congress; and daring not to doubt their intention, we believe them good. We have uniformly continued, however, to declare our willingness to receive and respect authenticated information for the quiet and interests of this people." In another letter, of the 25th of August, 1800, to the Secretary of State, (already communicated to the House) he observes, "the honorable Mr. Davis seems to have been at much trouble to establish what the Governor and Judges are very willing to admit, 'that they have made laws.' As Secretary of the Northwestern Territory, and vested with the powers of the Governor, I fully concurred with the Judges that we were a complete legislative body. We never hesitated to manifest this to Congress; and the laws by Governor St. Clair, the Judges Parsons, Symmes and Varnum, enacted as early as 1788, demonstrated that such also was their opinion. I solemnly deny to have acknowledged (as Mr. Davis asserts I have) a deviation from the ordinance of Congress in the thus enacting of laws; for the ordinance, in my acceptance thereof, tolerates so doing; in strong presumptive proof of which, I shall offer, as the honorable Mr. Davis and myself seem to have so differently read the same, that the laws which were regularly transmitted to the General Government, in one solitary instance only were disapproved; thus evidencing their perfect coincidence in sentiment with us upon this very important subject. As a further proof of their will and pleasure that we should 'make laws,' they have enacted, nearly in the words following, 'that the laws of the Territory that have been, or hereafter may be enacted by the Governor and Judges; &c.; and again, that the Governor and Judges shall be authorized to repeal their laws by them made, whenever the same may be found to be improper.'"

With respect to the practice which Governor Sargent alleges obtained with the Governor and Judges of the Northwestern Territory on this point, your committee are informed, that at their first meeting in 1788, a difference of sentiment arose between the Governor and Judges on this subject;

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they asserting and he denying, the power of the Legislature to make laws not derived from the codes of the States. After protesting against the assumption of that power, the Governor yielded to the opinion of the Judges. The subject was again resumed in 1795, when the Governor published his correspondence with the Judges, showing his disapprobation of the principle of making laws; on their part, the then Judges also published the reasons and grounds of their opinion and conduct in making laws. The Governor again yielded to that opinion, and from time to time, till the second grade of Government was established, the Legislature enacted laws not derived from the codes of the States.

The laws of that Territory being voluminous, a complete set whereof is to be had for examination only, in the office of the Secretary of State, your committee have not been able, from their own inspection, to ascertain how far the practice of making laws obtained, or how constantly it was adhered to in successive periods, as the judges have succeeded to each other. They find that several of the laws passed before the year 1795 were not taken from the statutes of either of the States. Mr. Wagner, clerk in the office of the Secretary of State, who, at the request of the committee, has examined the laws of the Territory in reference to this point, certifies, "that he has examined the laws of the Northwestern Territory from the commencement of its legislation, to the 1st of August, 1792, but it does not appear, from the face of them, which, or what parts of them have been adopted from the codes of the original States, or have been originally made by the Legislature of that Territory." How far, therefore, they have been mere adoptions from those codes, can only be established by comparison. That is not the case with respect to the printed laws of the Territory, published since May, 1795, in which they are invariably stated in their titles to be adopted laws, except in the instance of repealing laws; to pass which, the Governor and Judges were expressly authorized by the act of Congress of the 8th of May, 1792, and except a law in addition to a law, entitled a law ascertaining the fees of the several officers and persons therein named, published at Cincinnati on the first of May, 1793, by Winthrop Sargent, acting as Governor, and John Cleves Symmes, Joseph Gilman, and Return J. Meigs, Judges, which is not stated to have been adopted. Your committee further find, that on the 21st day of January, 1794, the President of the United States laid before the two Houses of Congress a copy of such laws of the Territory of the United States Northwest of the river Ohio, as had been passed from July to December, 1792, inclusive; that on the 21st day of April, 1794, they were, by order of the House of Representatives, referred to a special committee, who, on the 24th day of May, 1794, among other things, reported, that, on examination of the said laws, they found many of the provisions contained in them objectionable, but that they conceived it would be immaterial for them to detail the particular objections, as one applying to the whole of said laws afforded, in their opinion, sufficient reason for disapproving

them. That those laws appeared to have been passed by the Secretary and Judges, on the idea, that they were possessed generally of legislative power, and have not, in whole or in part, been adopted from laws of the original States; that on the 12th of February, 1795, an engrossed resolution, in the form of a concurrent resolution of the two Houses, disapproving all those laws except one, was agreed to by the House of Representatives and sent to the Senate. In the Senate, on report of a special committee, the resolution was disagreed to. The consideration of those particular laws does not appear to have been resumed.

In a letter of Governor Sargent's to the Secretary of State, dated Mississippi Territory, January 15, 1799, he writes: "the Judge's arrival enables us to legislate: it was most essential, and we will set about it without delay, though with much regret on my part at the want of the laws of the several States, as we must be compelled to form our code from the volumes of the Northwestern Territory, which I by no means can be induced to believe a very good basis."

And in another letter of the 13th of March, 1799, he writes to the Secretary of State: "I have already advised you of the arrival of Judge Tilton, and, in consequence, we are at length legislating; but destitute of the laws of the several States, we necessarily *make* instead of adopting them; the right to do which has heretofore been a question. Very diffident of my own law knowledge, I feel extremely anxious for the presence of Judge McGuire, who, I am taught to believe, is a great professional character."

Third. Of unlawful exactions of fees for official acts.

The fees alluded to are for passports to persons travelling from the Mississippi Territory to other parts of the United States, through the Indian country, and on marriage and tavern licenses.

Governor Sargent acknowledges his having received fees of the above description. He justifies the practice on the principle of those acts being extra from the duties of the Governor's office, and also of precedent in the Northwestern Territory, known, as he presumes, for a long time, to the General Government.

A law of the Mississippi Territory, entitled a law to regulate taverns and retailers of liquors, and concerning Indians, allows to the Governor a fee of eight dollars on a tavern license, which, with a like fee on marriage licenses, Governor Sargent has received. The amount of the fee on passports is unknown to the committee.

By a law of that Territory, fees are allowed to the Judges, on certain processes and official acts.

It is understood, that, for a course of years, the Governor of the Northwestern Territory has been in the practice of receiving four dollars on marriage licenses, and one guinea on tavern licenses. Laws have also been there passed, allowing to the judges fees on processes and official acts and compensation for travelling expenses; one of which was among the laws disapproved by the before mentioned resolution of the House of Representatives, which was disagreed to by the Senate; the other

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purports, on the face thereof, to have been adopted from the New York and Pennsylvania codes. Both of those laws were passed by Governor Sargent, when Secretary, and acting as Governor of the Territory.

The act of Congress, authorizing the establishment of a Government in the Mississippi Territory, provides that the officers therein shall receive the same compensation for their services, to be paid in the same manner, as is by law established for similar officers in the Territory Northwest of the river Ohio, and the powers, duties, and emoluments of a Superintendent of Indian Affairs for the southern department to be united with those of Governor.

To the Governor of the Northwestern Territory, for discharging the duties of that office and those of Superintendent of Indian Affairs, is allowed an annual salary of two thousand dollars, and to each of the Judges eight hundred dollars.

As the Governor and Judges of the Territorial Governments are officers of the United States, with annual salaries fixed by the laws of Congress, their exacting and receiving fees, as before stated, cannot be otherwise considered than as an abuse which ought to be corrected.

Although the committee find cause to notice as irregularities, in Governor Sargent's administration, the making laws not derived from the codes of the original States, and also his receiving fees for certain official acts, yet it appears satisfactory to them, from the circumstances under which they took place, that those irregularities originated from incorrect and misconceived opinions respecting the extent of his powers, and not from impure or criminal intentions.

They therefore respectfully submit to the consideration of the House the following resolution:

Resolved, That there does not appear cause for further proceedings on the matters of complaint for mal-administration against Winthrop Sargent, as Governor of the Mississippi Territory.

MISSISSIPPI TERRITORY,
August 25, 1800.

SIR: In consequence of proceedings in the National House of Representatives, tending to implicate the Governor and Judges of this Territory, unofficially communicated from the Department of State, I took leave to address the then Secretary, in a long letter, bearing date the 15th June, to exculpate, defend, and justify our aspersed conduct. Since that period there has come to my view, through the medium of the public prints, a resolution of the House of Representatives, for disapproving so much of two of our laws as authorizes certain fees to myself and their honors; with notice that the consideration thereof had been postponed by the wisdom and justice of the honorable Senate.

In a public paper styled the True American, and printed at Philadelphia upon the 15th of May, we observe an extraordinary motion, and a more extraordinary preamble, to have been made on the preceding day by the honorable Mr. T. T. Davis,

and such as the most rigid justice should not have dictated, but upon fullest proof of foulest deeds. To the distinguished sympathies and candor of Messrs. Harper, Craik, Nott, and Griswold, we stand indebted for reminding gentlemen that "the accused had no opportunity of answering to the very serious charges contained in the honorable Mr. Davis's preamble; that, if the censure was just, impeachment ought to be obtained by other means," more equitable, more ingenuous, and less dishonorable, they might well have added; and for impeachment, conscious we have discharged our duties according to honor and to conscience, we stand prepared; persuaded always that the tenure of public commissions, under the American Government, rests not upon their forfeiture.

Whether we may be indulged with the privilege of being heard is yet a question. Upon most of the allegations so odiously blazoned in the preamble of the honorable Mr. Davis, I have, I fondly trust, so fully expressed myself as at least to suspend sentence of public condemnation; and, ere another session of Congress, gentlemen who may seek truth, shall find fullest conviction that we have been most barbarously abused and vilified; for my own part, I have already thrown the gauntlet, and defy the most insidious as well as active malice to establish—

That I have "acted under the influence of a faction, or pursued the principles of despotism, in excluding from my confidence a majority of the well disposed citizens."

Or that I have "indulged an unwarrantable distrust of the great body of this people, and appointed over them, to offices civil and military, persons obnoxious for their intrigues and foreign influence." I deny that I have "practised avarice, extortion, or any oppressive measure," as has been ascribed to me by the honorable Mr. Davis.

Fees warranted by a law predicated upon long-continued practice of the Northwestern Territory, and which had received the approbation of Congress, we have sometimes demanded, with this very essential difference, however, and as is in some measure stated in my last letter: that there the Governor and Judges have actually exacted fees for services expressly required by the ordinance under which they were appointed; whilst in this Territory (as it respects myself, this is most confidently asserted) they have been received for such only as seemed extra.

Judges in the Northwestern Territory are allowed by law a reimbursement of all expenses of themselves and servants in going the circuits to hold the courts. They have also fees for allowing writs of error, supersedeas, for taking bail, filing bail pieces, and all the et ceteras for which the honorable Mr. Davis has so zealously assayed to attach odium to the judicial character within this Government. The honorable Congress could not have been uninformed thereof, for the laws and records in point had been officially transmitted by myself, as secretary, consequently, long ere the practice of exacting fees could have been adopted into the United States' Mississippi Territory,

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granting then, sir, for a moment, the exacting of fees to be wrong, should not manly candor have dictated that the example of an older colony, so long and so strongly sanctioned by the very highest authority we under God can know, might in justice have been accepted as an apology, and we humanely spared the cruel mortification of suffering the hard, the intemperate language with which we have been assailed in the face of Congress, our friends, and the world?

The privilege of gentlemen tolerating full freedom of speech does not warrant indecorum, nor can any power, I humbly conceive, command my tacit acknowledgment of the "avarice and extortion" ascribed to me by the honorable Kentucky member. Though constrained always to rigid economy by the hard service of my country, I acknowledge not to have practised "avarice and extortion."

A soldier of the Revolutionary war, I retired not from the field till the close thereof; and it may be remembered by some of the veteran comrades in those days of peril, and who have witnessed the whelming calumny so unjustifiably attached to my humble name, that bread and fame were our sole reward.

In civil life, of the ten years that the Government of the Northwestern Territory had been established, ere I was commanded to this country, the arduous and complicated duties of Governor and Secretary, with the accumulated expenses of both offices, were mine to discharge, and without further public provision than the small stipend allowed the Secretary.

By statements made to the honorable Congress in 1796, for a compensation which is yet withheld, it will appear that my expenses were necessarily very considerable, the salary small, and that there were none of the operating motives for an avaricious man to have continued in office; that reputation, a good name, must have been the grand desideratum. Offices in your Western country were long acknowledgedly the posts of danger; hence, perhaps, their tenure undisturbed: but gentlemen read in the history of the sufferings and peril of those days, a just and a grateful country cannot hastily prostrate servants grown gray in hardihood and toil.

The honorable Mr. Davis seems to have been at much trouble to establish what the Governor and Judges are very willing to admit, "that they have made laws." As Secretary to the Northwestern Territory, and vested with the powers of the Governor, I fully concurred with the Judges that we were a complete legislative body. We never hesitated to manifest this to Congress, and the laws by Governor St. Clair, the Judges Parsons, Symmes, and Varnum, enacted as early as 1788, demonstrated that such was their opinion also; but I solemnly deny to have acknowledged (as Mr. Davis asserts I have) a deviation from the ordinance of Congress, in the thus enacting of laws; for the ordinance, in my acceptance thereof, tolerates so doing: in strong presumptive proof of which I shall offer, (as the honorable Mr. Davis and myself seem to have so differently read the same,) that

the laws which were regularly transmitted to the General Government, in one solitary instance only, were never disapproved; thus evidencing their perfect coincidence in sentiment with us upon this very important subject. As a further proof of their will and pleasure that we should "make laws," they have enacted nearly in the words following:

"That the laws of the Territory that have been or hereafter may be enacted by the Governor and Judges," &c., and again, "that the Governor and Judges shall be authorized to repeal their laws by them made, whenever the same may be found to be improper."

Whence we certainly may take leave to infer our most incontestable right to the so very essential and salutary measure of enacting as well as adopting laws for common good; and further, that we shall stand exonerated, in the minds of the virtuous and the wise, from even the intention of exercising that "most dangerous assumption of power," so unadvisedly ascribed to us by the honorable Kentucky member.

Amongst the rolls in the office of the Territorial Secretary, we are ingenuously to acknowledge a law for the punishment of arson, that seems to have escaped the watchful eye of the honorable Mr. Davis, and which, together with the statute against treason, are, in our view, alike exceptionable. No legal decision or proceedings, however, have been had thereupon; nor will the Judges, I persuade myself, ever designedly transgress the sacred rules of our more respected Constitution. But so much has already been said upon this unpleasant theme, without anticipating opprobrious misconceptions of our intentions, and which appears in my address to the Legislature of the 5th of May, in your office, that no more explanation or comment can be now necessary. In any formal investigation, I hope to demonstrate that the original of the laws (our great anxiety to disseminate hastily sent to the printer) was unexceptionable in matter; but that we have been inadvertent in our signatures to the rolls cannot be denied; an act acknowledgedly hostile to the Constitution, though we have the consolation to believe it has operated no evil. For my own part, however, I claim no indulgence in official transactions, and will await, in respectful submission, such censure as may be deemed proportionate to the magnitude of my transgression; but, when it shall be mercifully considered that the law for the punishment of arson in the Northwestern Territory, subject to the same Constitutional objections with any of the statutes of this Government, had been ten years before Congress at the time we adopted it, (and never disapproved,) it must be received as an extenuation of our crime.

There has been transmitted to the Department of State the copy of an appeal to the justices of Adams county, made immediately upon my receiving the reports of the committee of Congress, to whom had been referred the petition of Cato West, and certain letters of Narsworthy Hunter. The only matter therein which I then deemed of consequence enough to engage my special attention, and publicly demonstrate to be false, was Mr. Hunter's so positive declaration of my usurping

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the powers of the court, (their duty to hold sacred,) and with most nefarious and dishonorable intention.

My appeal is annexed to the letter of the 15th of June, before mentioned, but it was not until the 4th instant that the justices were in session, which necessarily delayed their response herewith transmitted, and which I respectfully solicit may accompany the petitions of Cato West and others, "as the natural and legitimate relatives of those documents," which the honorable Mr. Davis has proposed to lay before the President.

Under any other circumstances than a base impeachment of almost all the territorial officers, I could not myself announce to Congress that the "accredited agent" of those persons, "styling themselves a committee regularly chosen by the inhabitants of the Mississippi Territory," &c., stands convicted, to every man of mind, of malice, mischief, and falsehood; and, if words have meaning, that he is recorded in the honorable court of general quarter sessions of the peace of Adams county, in their August term, to the present people and posterity, as a most infamous liar.

The character of the members of this court generally is, I believe, less exceptionable than that of any other equal number of men within the Government; but they are sufficiently known to reject or confirm my estimation by the most abundant testimony.

The presiding justice is respectable for integrity, science, and wealth; with very conciliating manners, and an independence of sentiment most happily adapted to his public station. I shall take leave to enclose unto you his charge to the grand jury, in this same August term, adding my request that it may be brought to the view of Government to illustrate the reputation of accusers and accused, and for other purposes important to this Territory, whenever proceedings shall be continued under the petition of Mr. West and committee. The name of Mr. Hugh Davis in the list of magistrates will also be found in the Mississippi committee; this, and the character which I have drawn of the former, may seem incompatible. The motives for my own appointments I can explain, but not always the conduct of officers.

This Mr. Davis is the same gentleman I have quoted in my address of the 15th of June, as the "well-meaning member of the committee, obtaining a copy of a letter of the 20th of December, 1798, to the Secretary of State," and which he believed to have been by them most basely perverted. He has since communicated to me that the representations made in that letter of the sufferings of the inhabitants from the Indians under Spanish and American government, then complained of by almost every man of my knowledge, and late presented as a grievance by the grand inquest, would have been stated to the General Government at that time as a wicked and abominable falsehood of the Governor; and that neither injury nor inconvenience from the Indians had ever been experienced by this people, but for his special opposition to the measure, made under the fullest impression of the justice and propriety of

my statements, and which the committee had been constrained reluctantly to acknowledge. Facts, produced to them by Mr. Davis, had been too strong, and of too much publicity, to have escaped the notice of many of the members, and must induce a powerful presumption of more than want of candor upon the occasion.

The clerk, sheriff, and one of the justices, have transmitted to me some documents relative to the alarming depopulation said by Mr. Hunter to have taken place under Doctor White; the site of public buildings, "so marked by opposition to general opinion," and other matter, all which I take leave to submit as proper to be brought forward in future attention to the motion and preamble of the honorable Kentucky member.

My respected friend Colonel Clarke, deceased, whose eulogium and worth have been so long established, and whose situation as commanding the militia, and presiding in the courts of justice, rendered him more and better conversant in the administration of the Government than almost any other man within the Territory, sensibly impressed by the insults and injury offered to the Governor, and the country, devoted the last moments of a life, passed in honor, to the bearing strong testimony against that obloquy and odium which had been produced by the unprincipled clamors of malevolence.

Mr. D. Clark, a citizen of the Territory, nephew to the colonel, and inheriting his valuable possessions in this country, a gentleman long known and respected for his spirited and successful exertions in favor of our oppressed countrymen at Orleans, has obligingly committed to me his uncle's sentiments, addressed, and intended to have been directly communicated, it seems, to the honorable Mr. C. C. Claiborne, of Congress.

Testimony from characters so endowed as to command universal credibility, and so honorable to the administration of this Government, I shall certainly avail myself of. The letter, therefore, from Colonel Clark to Mr. Claiborne, and one from his nephew, (in connexion,) I respectfully solicit may be considered by the honorable Mr. Davis as true "relative documents" to the petition of Cato West, and transmitted to the President, or otherwise, as shall be deemed best for his so censorious motion and preamble.

The same reasons, sir, which induced my last long letter, have made me at this time thus immeasurably prolix, and I have again to pray your enduring patience. Once I would have deemed it an undue condescension to have brought forward voucher or collateral aid against more respectable men, than any enrolled in the list of those who are warring upon my fame; my own declaration I should have believed enough under any circumstances but formal impeachment. Wary, however, and apprehensive from late sufferings and persecution, I would guard against wiles, wickedness, and surprise.

The precedent of censure, and other uncommon proceedings upon "*ex parte*" evidence and statement, demand, on our part, more than ordinary circumspection. The attentions which have been

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bestowed upon the representations of the smallest and the least respectable part of this community, I will venture to say, has excited astonishment in the mind of almost every man within the Mississippi Territory. That Mr. West and signers of the petition to Congress were not even a moiety of the committee pretended to have been duly elected, is well known to themselves, and no secret within the Government.

The circular letter which Mr. Hunter states to Congress as originating this body, was an indecorous publication, dated upon the 6th of July, 1799, requesting meetings of the inhabitants in the several districts to elect members for a general convention. This letter, to use the language of respectable characters amongst us, was evidently intended to have been communicated to those only who had been loud in disaffection to the Government; "not general, but to be whispered to a few individuals only."

If the whole people of the Mississippi Territory could have been assembled, or a due proportion of character only, the late proceeding of Cato West, and others, would probably have been discountenanced in all its parts. This is not mere matter of opinion; for, in the January of 1799, the same was demonstrated by analogy. In a committee, who then petitioned Congress upon the subject of these lands, were some of the leading characters of Mr. West's party assembled, with the same views which they they have of late accomplished; but the members who generally had been elected upon fair and honest principles, that is, after due and diffused notice, whose names are with Congress, and who probably were a representation of the majority, curbed, with strong hand, the spirit of faction and intrigue.

Fourteen days only elapsed, from the notice contained in the letter before mentioned, to the time appointed for holding the election; a short period, indeed, considering the extent of our country, and the dispersed state of its inhabitants. Many respectable persons, indeed whole settlements, Tensaw and Tombigbee (now Washington county) not included, were without notice upon this important occasion; nor can I learn that in any one of the districts there was an assembly sufficient for much less interesting purposes than constituting delegates to a general convention.

In the town of Natchez, which comprehends an important part of a respectable population, forty persons only assembled; a moiety of them are represented destitute of all visible property; people of any country, but never acknowledged to have been enrolled within this Territory. They chose two delegates; in the certificate of the election, however, the qualifications of the electors are candidly stated to have been problematical. One of the delegates, it is said, never attended the committee, and that the other, after in vain combating the violence of its proceedings, withdrew himself altogether. This is certain, that neither of their names are found affixed to the representations which have been published from this committee. By unquestionable authority, I am in-

formed that the principal inhabitants of the settlement of Big Black and Bayou Pierre, in the upper county, were without notice of the district meetings; and that out of one hundred and forty free male inhabitants, who should have voted for delegates to this committee, twenty-one attended; that their most weak and most abandoned characters were elected, amongst whom was one Robert Ashley, said to have fled from the justice of some of the Southern States, and who has been indicted within the Mississippi Territory for horse stealing.

All this, and much more anecdote, as well as public history of, and in relation to, Mr. West's committee, was known to the respectable citizens of the Mississippi Territory; and the natural inference, "so just, so wise and so wary a body as Congress, will not act upon such irregular, such partial proceeding," was the general sentiment, the general expression of the most worthy characters amongst us. Experience, however, has shown us, that conclusions, founded upon the intelligence of man, are too often fallacious. Abstract of all consideration merely personal, I must, sir, continue to view it as a very great misfortune that one party only should have been heard upon decisions so momentous to us all.

Information might have been had from sources disinterested, impartial, and of confidence; less intrusion and importunity upon the important time of Congress, (for the past, present, and to come,) with more tranquillity to this restive country, would probably have been the happy consequence.

General Wilkinson, it is believed, was in Philadelphia in time to have met inquiry; as an officer of rank and confidence, he was worthy to have been consulted; he had spoken and written honorably of the administration of this Government within my knowledge; he is conversant with men whom the people should have respected, and few of whose names are enrolled amongst our accusers. His testimony must have been favorable to the Mississippi Territorial officers.

He could have informed Congress that we are unprepared for any accumulation of expense; that the statement of Mr. Hunter, of the wealth and numbers in this Government, is exaggerated; that we were so involved in debt as to have rendered interposition of the Spanish Government, between us and bankruptcy, absolutely indispensable; and that in Pickering county, where discontent with the present administration had originated, there were not enough of informed men to fill the present necessary offices of Government. It is my duty, however, to endeavor to conciliate all this people to the change which has been commanded, and I shall most religiously perform it.

With the sensibilities of a man wounded in his better, his immortal part—reputation, I have, sir, written much, but I feel much more.

Assailed violently by a party in this country, from motives probably most impure, and in manner and language which, I persuade myself, no gentleman shall ever cease to abhor, some unbecoming wrath of expression, some undue consideration of self may have escaped me; but that no

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indecorum to characters in that honorable House, so much my duty to respect, may be found on those, or any of my future pages, is the object of my most devout prayers.

The honorable Mr. T. T. Davis, of Kentucky, seems to the Governor and Judges of the Mississippi Territory to have been unnecessarily severe. Towards the former he has practised most wanton and unwarrantable cruelty. He has given publicity to one of his letters seemingly intended only for his constituents, but which has circulated in the Northwestern Territory, where my very interesting concerns, where almost all my pecuniary affairs are afloat, calculated evidently to impress the people with such sentiments as may do me irreparable injury. He has added insult to injury, by addressing to me directly a copy of this letter, from which the following is a verbatim excerpt:

"A bill to authorize the Mississippi Territory to elect a Legislature of their own, and to take from their Governor the power of dissolving and proroguing them at pleasure, has passed the House of Representatives. The numbers in this Territory did not, according to the ordinance, entitle them to a Legislature, but to curb the usurpation of their Governor, to wit, Winthrop Sargent, Secretary to the Governor of the Northwestern Territory, Congress are inclined to grant them this extraordinary privilege; and much I fear this will not be sufficient to protect the people from the insolence of this Federal Governor, as he still retains the power of putting his veto on all their legislative acts."

I will conclude this long epistle, sir, in the words of a very celebrated poet—

"Durum! Sed levius fit patientiâ,
Quicquid corrigere est nefas."

and subscribe myself, with every sentiment of most respectful consideration,

Your obedient, and Government's faithful and zealous servant,

WINTHROP SARGENT,

The Hon. SEC. OF STATE of the U. S.

The Charge delivered to the Grand Jury at the opening of the Court of Quarter Sessions for the county of Adams, on the 4th instant, by the Hon. William Dunbar, presiding Justice:

Gentlemen of the Grand Jury: The court expresses great satisfaction at meeting a Grand Jury composed of such respectable persons now assembled for the discharge of its important duties towards our country.

It is with peculiar concern that this court has to lament, in the decease of its late able and worthy presiding magistrate, a loss which at this moment will be deeply felt. Gentlemen, you will undoubtedly mingle your griefs with ours in deploring a misfortune which this country was unprepared to sustain. Of all those gentlemen who have been honored with seats upon this bench, the late Colonel Clark was perhaps the only person who possessed, from the experience of his earlier years, treasured up in a mind replete with na-

tive energy, a sufficient fund of knowledge to enable him to preside over this court with conscious dignity. Long will the community have cause to lament the departure of this able magistrate, whose every moment, while he resided in this place, was dedicated not merely to the discharge of his official duty, but the ardor of his mind was perpetually occupied in seeking occasions to correct vice and repress immorality, whether of a public or private nature, and with a truly paternal care sedulously watching over the peace and happiness of this vicinity. The human mind is so constituted that, in order to discover the true value of an object, it would seem that it must first be lost; the public, therefore, will now begin to appreciate more justly the worth of this estimable character.

It has been said, with truth, that his brother associates relied on his perseverance, and would sensibly feel his loss; but, above all, this loss is most sensibly and severely felt by myself, who am now called upon, with inferior talents and very limited experience, to fulfil the important duties of his station in this court. If, in the infancy of our courts, this able magistrate thought it necessary to solicit the candor of his fellow-citizens, certainly I, whose whose education and pursuits of life have been altogether foreign to the modes of this court, have more abundant reason to entreat the indulgence of a generous public. The court is persuaded that if any deviation from technical rule should appear in the procedure of this court, it will be ascribed by our country to its true cause, and not to any deficiency in the virtuous wishes of its members to discharge with fidelity its duties in the public service.

Gentlemen, an important change has taken place in the form of our Government since the last meeting of this court. Congress, with great wisdom, considers all new colonies as in a state of infancy; and, as they are insufficient for their own protection, so also they are supposed to be unqualified for their own government. Protection and obedience must always go hand in hand. Congress, therefore, sends forth her chosen and approved servants with ample powers to guide the inexperience of her younger sons, who are not permitted to have a voice in their own Government, for the same reason that the infant is not permitted to oppose the will of the parent. The peculiarity of our situation, and our great distance from the seat of the General Government, have, no doubt, induced the honorable Congress to relax from the general rule established for the government of Territories; for it is to be recollected that the settlers of a British province, older than the Revolution, form the basis of the population of this Territory. It is true that accessions have been made to it by native Americans who have removed themselves during the war of the Revolution, and in a time of peace since the conquest by Spain; but the mass of our population not resembling any American colony, it is probable that this Territory has been considered as an ancient settlement, entitled to earlier privileges than young colonies just emigra-

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ting from the bosom of the United States. It would seem that, with a view to facilitate the obtaining the consent of Congress, it has been stated that our population cannot be less than 6,000 free inhabitants, and that our annual revenue in cotton, at one quarter dollar per pound, amounts to \$750,000. I do not know that evil consequences can result from this exaggerated statement, excepting that, in the course of possible events, we may be called upon by Congress for a contribution towards the general defence of the Union; which probably would be demanded in the ratio of the above statement of \$750,000. There are no data which have come to my knowledge, that would justify a calculation of half the above sum; and it ought, therefore, to be remembered that, at this early period, we refuse our assent to the above statement.

It may not be improper to say a few words upon the subject of another statement, in which it appears to me the honor of this court is implicated. This court has been called by the Governor of the Territory to declare whether it has been truly stated, that he, the Governor, did send to the first general court of quarter sessions of Adams county, for their sanction, an estimate of upwards of ten thousand dollars, which it is said the Governor thought necessary to be raised in that county. I answer, that no such statement was ever sent to this court by Governor Sargent. I have ever been astonished how such an absurd idea could get abroad. Those who affected to believe it, must previously have admitted the turpitude of this court; for certainly, as the law exists, it is not easy to conceive how the Governor could have hazarded issuing so extraordinary a mandate, unless he were well assured that this court was predisposed to be his obsequious and servile minions. I presume that I speak the general opinion, when I say that this court is composed of men possessing sound republican principles, and of independent fortunes, who court not the smiles, nor fear the frowns of any man, however exalted may be his rank in life. The more ample reply, with the statements requested by the Governor, will be referred to the consideration of my brother associates.

Let us hope, gentlemen, that, by the virtue of our citizens and the wisdom of our legislators, our new privileges will become a source of additional happiness and prosperity to this Territory. It is a pleasing presage of our improving manners and peaceful disposition, that the late elections for this county were conducted with so much order, harmony, and decency, greatly to the honor of both candidates and people; and I do most sincerely congratulate my country on this recent proof that party spirit is retreating from our land. It is a certain truth, that the interests of the citizens of this Territory, when properly understood, are one and the same, and ought to bind us to each other in a firm bond of union. It is grievous to all good men, when the demon of party spirit stalks over the land. It will be always found to originate with men of despicable talents, who despair, by other means, of raising themselves into popular estimation. Gentlemen, you can-

not do a more acceptable office to your country than by carrying to your respective homes a spirit of conciliation, endeavoring to extinguish this pernicious principle which harasses the peace of society, and keeps asunder families whose mutual happiness and interest it is to live in harmony and the exchange of good offices. Those who take a pleasure in broils, dissensions, and tumults, will counteract your virtuous endeavors, because their importance would be destroyed by your success; but if the worthy characters of the community could at length resolve to use their exertions, the fomentors of this malignant spirit would be compelled to hide their heads in the darkness of their evil designs.

Gentlemen, you are specially returned the grand inquest of the county, to inquire of all crimes and misdemeanors committed therein, and which are within the jurisdiction of this court to determine and sentence.

A crime or misdemeanor is defined to be "an act committed or omitted in violation of a public law, either forbidding or commanding it;" and this public law that is violated may be either the written statute or the common law of the land, which prohibits all offences of a public and evil example, and contrary to good morals. The jurisdiction of this court is limited by a statute of this Territory, and extends to all crimes and misdemeanors, of whatever nature and kind, committed within this county, the punishment whereof doth not extend to life, limb, imprisonment for more than one year, or forfeiture of goods and chattels, of lands and tenements, to the Government of the Territory. All offences punishable in less degree or in any other manner than by the punishments above enumerated, are within the jurisdiction of this court, and, therefore, proper objects of your inquiry. Offences against the penal statutes of the Territory come before this court through your presentments, such as perjury, larceny, forgery, making of fraudulent deeds, maiming or disfiguring, usurpation of office, assault and batteries, riots, routs, and unlawful assemblies, marrying persons contrary to law, offences against the statute regulating taverns and retailers of liquors and concerning Indians, also offences against the law regulating slaves, with others that might be enumerated from our penal code. Many offences against the common law might be noted as proper for your inquiry, such as challenging to fight or bearing a challenge, libels, nuisances, cheating, forcible entries and detainers, kidnapping, &c. In fine, every offence of a public and evil example, contrary to good morals, the punishment whereof this court can inflict, is within your duty to present.

Your presentments are made either by bill of indictments presented to you by the attorney for the Territory, or by a presentment, properly so called, which is the notice taken by you of any offence, from your own knowledge and observation, without any bill of indictment being laid before you, upon which, if the object admits of it, and is properly supported by evidence, an indictment is afterwards framed.

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On the subject of offences, I find myself impelled to animadvert upon a crime of a heinous nature, which is too often resorted to upon very slight and trivial occasions; I mean the practice of duelling, where both parties meet avowedly with an intent to murder, presumptuously arrogating to themselves the right to wanton with their own lives and those of their fellow-creatures, in direct contradiction to the laws both of God and man.

Challenges to fight, either by word or letter, or to be the bearer of such challenge, are punishable, by fine and imprisonment, according to the circumstances of the offence.

Where two persons coolly and deliberately engage in a duel, this being attended with an apparent intention and danger of murder, and being a high contempt of the justice of the nation, is punishable as an affray of an aggravated nature, though no mischief has actually ensued.

Where killing has been the consequence of deliberate duelling, the law has justly fixed the crime and punishment of murder on both principals and seconds.

Hence, gentlemen, you perceive that the law has made ample provision for restraining this barbarous practice; and if it comes to your knowledge that any person has committed any one of the above-mentioned crimes or misdemeanors, you are bound by your oaths to present them.

Before you retire to your chamber, I have to request that, if you find your business likely to detain you a considerable time, you will be pleased to present to the court a few of the bills which may be first found, to enable us to proceed to try the traverses while the Grand Jury is occupied with the remainder of their business; the court having it greatly at heart to save as much as possible the precious time of the industrious inhabitants who are obliged to attend here at the present season.

The justices of the court of quarter sessions for the county of Adams, in court assembled, having taken into consideration an appeal made to them by his excellency the Governor of this Territory, on the subject of certain statements made to the committee of Congress by Mr. Narsworthy Hunter, as contained in Green's Impartial Observer of the 14th of June last, do declare in the most explicit manner, that the Governor did not send to this court, for their sanction, an estimate of \$10,760, said to be for the current expenses of Adams county for the year 1799; nor did he ever send any other estimate to this court for that purpose; neither did he ever interfere, either directly or indirectly, with the proceedings of this court, in any manner contrary to the existing laws of this Territory.

Given under our hands, in court, the 6th day of August, 1800.

WILLIAM DUNBAR,
THOMAS WILKINS,
ABRAM ELLIS,
JOHN COLLINS,
HUGH DAVIS,
WILLIAM KENNER.

Estimate of the probable expenses of a public nature for the county of Adams, for the year 1799, made by the justices of the court of quarter sessions, and approved by the Governor and Judges.

For building a jail, including all materials	\$3,300
Timber for a kitchen for the same	80
Pickets for enclosing the jail	80
Sheriff's expenses, including fire-wood, water, and provisions for the prisoners for the present year	500
Carpenter's expenses in preparing the present court-house	50
For inquests held on the bodies of Ann Daugherty and Duncan, by L. Evans, before the appointment of Melling Woolley as coroner	10
For 3,000 days labor of one man, supposed to be necessary for repairing the highways	1,500
For contingencies	500
	<u>\$6,040</u>

The above is the amount of the tax ordered to be collected from the county of Adams, for the last year, which is only received in part. From the returns made by the supervisors of the highways, which are not yet perfected, it is presumed there will be a surplus on that object of \$500, and the tax on tavern licenses has amounted for the last year to \$965, making the whole surplus \$1,465; out of which an unforeseen expense of \$360, for paupers' expenses, will be paid; which objects will be introduced into the following estimate for the present year, 1800, viz:

Court-house rent for the year 1800	\$250
Sheriff's expenses, including fire-wood, water, &c. for the jail	250
Paupers' expenses for two years	600
Contingencies, including the treasurer's, commissioner's, assessor's, sheriff's, coroner's, (clerks and prothonotary extra charges,) attorney general's, and other accounts, and compensations for services rendered to the county, and not specially provided for	500
Deficiency of the contingent accounts for 1799	500
Making and repairing public highways	1,000
	<u>\$3,100</u>

Ways and Means.

Surplus of the tax for highways for the year 1799	\$500
Tax on tavern licenses for 1799	965
Tax on tavern licenses for 1800, estimated at	965
	<u>\$2,430</u>
To be raised from the county of Adams, for 1800	<u>\$670</u>

Certified in court, the 4th day of August, 1800.

WILLIAM DUNBAR,
THOMAS WILKINS,
ABRAM ELLIS,
JOHN COLLINS,
HUGH DAVIS,
WILLIAM KENNER.

Official Conduct of Governor Sargent.

I, Peter Walker, Clerk of the Court of General Quarter Sessions for the county of Adams, do hereby certify, that the persons whose names are above written are justices of the peace, duly commissioned and qualified, in and for the county aforesaid; and that they signed their names unto the original, of which the foregoing is a copy, in open court, the day and year above mentioned.

In testimony whereof, I have undersigned my name, this fifteenth day of September, one thousand eight hundred.

PETER WALKER.

Presentment of a Grand Jury, at October term of the Supreme Court, Mississippi Territory, A. D. 1800.

At a court of oyer and terminer, held at Natchez, for the county of Adams, on the 13th of October, 1800. The grand jury for the said county present:

1st. That it will be highly expedient to make an application to the Territorial Legislature, praying them to frame or adopt laws for the more summary trial of slaves than can at present be effected by the existing statutes of this Territory; from which may result a considerable saving in expense and time to the owners, as well as the exercise of humanity towards the slaves, by the speedy termination of the trials.

2dly. We present Hugh Davis, Esquire, a magistrate of this county, for having committed a breach of the statutes of this Territory, in defacing a record of the court of quarter sessions of this county, to wit, the certification of the court in consequence of an appeal, made by his excellency the Governor of the Territory, on the subject of certain statements made to the committee of Congress, by Narsworthy Hunter, on the 8th February, 1800, and the estimate of the probable expenses of the county of Adams, for the years 1799 and 1800, by drawing a line through four words of said record, to wit, Hugh Davis, twice written, and ordering the printer not to insert said words, contrary to the instructions of the said court.

3dly. We present that Narsworthy Hunter has been guilty of composing and uttering a malicious, scandalous, and false libel against Winthrop Sargent, Esq., Governor of this Territory, as contained in a letter purporting to be addressed to the honorable W. C. C. Claiborne, chairman of Mississippi committee, dated 8th February, 1800, in the words following: "The estimate annexed to the petition of Cato West and others, mentioned in your note, is not the amount of the tax laid on the county of Adams by a law of the Territory; but it appears to be the sum which the Governor thought necessary to be raised in that county, for the service of the last year, and it was sent by him to the first court of general quarter sessions, in order to receive the sanction of the court. This would give it immediate currency, and necessarily operate in aid of his future projects of taxation; but such a manifest prodigality of the public resources appeared upon the face of it, together with so marked an opposition to the public opinion, with regard to the place whereupon the public buildings were to

be erected, that it received the immediate disapprobation of the court; and, I believe, a similar instrument was never presented to the county of Pickering;" and, also, a malicious and scandalous libel against the Governor and Judges of this Territory, in their legislative capacity, contained in the aforesaid letter, in the words following, to wit: "The whole country were influenced by an idea that the ordinance for our government had been wantonly abused, and the Constitution of the United States as wantonly violated, at a time and under the circumstances which required no such sacrifice." Which said libels have direct tendency to expose them to public hatred, contempt, and ridicule, as also to disturb, in a violent degree, the peace and good order of society, by destroying that confidence so essential to the happiness of the people, which ought to subsist between them and their rulers; and by breaking down that respect which all ranks owe to those who are the guardians of our laws, may be productive of the worst of all human evils, the natural result of anarchy and unbridled licentiousness. The grand jury view, with horror, the late prevailing disorders, of a most alarming nature, which pervade the Territory, and which will all be the consequence of such crimes as have a manifest tendency to loosen the sacred bands that cement together the laws, the people, and their magistrates; for certainly, of all the most dreadful evils, that is the greatest which points out the means by which wicked men may resist and defeat the laws of their country, the consequences of which are too shocking to be here detailed. The grand jury expect, with confidence, that by the legal powers and influence of this honorable court, vigorous measures will be adopted to check the growing evils of our country, and, by the inflexible execution of the laws, we may be once more restored to peace, harmony, good order, and mutual confidence.

4thly. The grand jury are impressed with the fullest conviction that the second grade of Territorial Government is fraught with inconveniences which the good people of this Territory are not in a situation fully to encounter; they are persuaded, in particular, that the very considerable expense which will be occasioned by the new Legislature superadded to the county levies, already a subject of complaint, will be beyond the ability of our limited population to support, without very sensibly feeling its detrimental effects in the diminution of their small revenues; thereby procrastinating the time of extinguishing the remains of long standing debts, and of enabling their families of enjoying, at an earlier period, a few of the comforts of life. They earnestly recommend to their fellow-citizens to reflect, whether it will not meet the general wish of the Territory, that application be made to Congress to suspend the operation of the supplemental act for establishing the second grade of Territorial Government until it shall be fairly established to be the wish and desire of a majority of our citizens; this privilege will not be denied to our citizens, which has been conceded to the new Territory of Indiana, whose inhabitants, deriving wisdom from two years experience of the second grade of gov-

Military Academy, &c.

ernment, have found it their interest to repose entire confidence in the Legislature appointed by and under the control of the General Government, the people still retaining in their hands the power, which cannot fail to have a happy influence over their government, to wit, that of assuming the second grade whenever it shall be the will of the majority of their citizens. The grand jury have strong reasons to believe that the majority of our citizens will approve of postponing the operations of the second grade, under the above stated privilege of assuming it whenever they shall find it expedient. The grand jury think it, therefore, a duty to present, as a grievance, that the sudden and unexpected alteration in the government of the Territory, has been brought about by the industry of fifteen persons, part of a committee of thirty-five, irregularly chosen, at whose election not one-half of the inhabitants are supposed to have attended; and which election was held for the express purpose, as the people were informed by a hand-bill, not to demand a change of the former Government, but to obtain a redress of grievances; and consequently this important measure has been effected with the implied consent of less than one-quarter part of the citizens; or, more properly speaking, by the unauthorized agency of fifteen persons, composing the minority of the committee. The grand jury feel themselves forcibly compelled by their duty to add, that so great an alarm exists in the minds of the people, on the subject of taxation, that they are of opinion that, if the second grade of government is not arrested in its present stage, and postponed until the population and finances of the Territory become adequate to the increased expense of that grade, a very great depopulation will be the inevitable consequence.

The grand jury return their thanks to the court for their excellent charge; they presume to hope, that the just sentiments therein expressed will make a happy impression on the minds of the people, contributing, with other means, to attain the desirable end so much to be wished by all good men.

WILLIAM G FORNAN,

Foreman.

Ordered by the Court, That process issue on the second and third presentations, on application of Lyman Harding, Esq., Attorney General.

A true copy, test:

ROBERT STARK, C. S. C.

MILITARY ACADEMY—REORGANIZATION OF THE ARMY.

[Communicated to Congress, January 14, 1800.]

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

A report made to me on the fifth of this month, by the Secretary of War, contains various matters, in which the honor and safety of the nation are deeply interested; I transmit it, therefore, to Congress, and recommend it to their serious consideration.

JOHN ADAMS.

UNITED STATES, Jan. 13, 1800.

WAR DEPARTMENT, Jan. 5, 1800.

The Secretary of War respectfully requests the attention of the President of the United States, to certain measures and arrangements, which appear to him to be indispensable to the improvement of our military system, and solicits, if it shall be thought proper, that the same may be submitted to Congress.

No sentiment is more just than this, that, in proportion as the circumstances and policy of a people are opposed to the maintenance of a large military force, it is important that as much perfection as possible be given to that which may at any time exist.

It is not, however, enough, that the troops it may be deemed proper to maintain be rendered as perfect as possible, in form, organization, and discipline; the dignity, the character to be supported, and the safety of the country, further require that it should have military institutions, should be capable of perpetuating the art of war, and of furnishing the means for forming a new and enlarged Army, fit for service, in the shortest time possible, and at the least practicable expense of the State.

Let it not be presumed, that a country, however distantly situated from other nations, or favored by the courage and genius of its inhabitants, can neglect, with impunity, military institutions, or that it may, safely, consider all regular force to be useless, except when there is an enemy present to employ it. A country which acts upon such a maxim will invariably attract injuries and enemies, and, sooner or later, sink by internal discords, or see its noble spirit broken down by repeated humiliations, and the whole people thus prepared for the last stage of national degradation.

If the farmer would secure his flocks, he must go to the expense of shepherds; if preserve his crops, he must enclose his fields. In like manner, to insure safety to the nation, it is necessary that the leading avenues into it be guarded by troops and fortifications. Before the invention of gunpowder, the smallest villages were invested with walls, so that a long siege was often requisite to reduce them. Since that epoch, the history of almost, if not every war, contains undeniable proofs of the utility of fortifications, and the necessity of disciplined troops, to the defence of a country. Would it be wise or expedient in us to pursue a different course, and shut our eyes against the innumerable facts on record, in favor of their essentiality? Are we without regular troops, we may soon lose the military art; are we without engineers, not a little of the money employed on fortifications will be always hazarded, if not actually thrown away, and generals of the most consummate genius forced to capitulate in the field, whose retreat might have been covered by a fortification, or the battle decided in his favor by a happily contrived intrenchment.

Since, however, it seems to be agreed, that we are not to keep on foot numerous forces, and it would be impossible, on a sudden to extend, to every essential point, our fortifications, military science, in its various branches, ought to be cultivated with

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peculiar care, in proper nurseries; so that a sufficient stock may always exist, ready to be imparted and diffused to any extent, and a competent number of persons be prepared and qualified to act as engineers, and others as instructors, to additional troops, which events may successively require to be raised. This will be to substitute the elements of an Army to the thing itself, and will greatly tend to enable the Government to dispense with a large body of standing forces, from the facility which it will give of procuring officers, and forming soldiers promptly in all emergencies.

No sound mind, after a fair view of the subject, can doubt the essentiality of military science in time of war, any more than the moral certainty that the most pacific policy on the part of Government, and the most solemn and well observed treaties, will not preserve a country from being engaged in war more or less frequently. To avoid great evils, we must either have a respectable force always ready for service, or the means of preparing such a force with certainty and expedition. The latter, as most agreeable to the genius of our Government and nation, is the object of the following propositions:

First—A Military Academy.

The object has repeatedly engaged the favorable attention of the Legislature, and some laws towards its consummation have been passed. These, however, being yet inadequate to afford the requisite instruction to officers, and others, in "the principles of war, the exercises it requires, and the sciences upon which they are founded," the adoption of a more perfect plan is conceived to be indispensable for these purposes. With this view, the following plan is respectfully suggested, formed upon those of institutions of a similar nature, from which the nations who have founded them derive the most decided advantages.

It is proposed that this Academy shall consist of four schools: one to be called "The Fundamental School;" another, "The School of Engineers and Artillerists;" another, "The School of Cavalry and Infantry;" and a fourth, "The School of the Navy;" and be provided with the following officers, professors, and teachers:

A Director General to superintend the three first schools.

A Director of the Fundamental School.

A Director of the School of Engineers and Artillerists.

A Director of the School of Cavalry and Infantry.

A Director of the School of the Navy.

Six Professors of Mathematics.

Four Professors of Geography and Natural Philosophy.

Two Professors of Chemistry, including Mineralogy.

Three Architects.

Four Designing and Drawing Masters.

One Riding Master.

One Fencing Master.

To be thus distributed among the several Schools:

To the Fundamental School.

One Director.

Four Professors of Mathematics.

Two Professors of Geography and Natural Philosophy.

One Designing and Drawing Master.

One Professor of Chemistry.

To the School of Engineers and Artillerists.

One Director.

Two Professors of Mathematics.

Two Professors of Geography and Natural Philosophy.

One Professor of Chemistry.

Two Architects.

Three Designing and Drawing Masters.

To the School of Cavalry and Infantry.

A Director.

A Riding Master.

A Fencing Master.

To the School of the Navy.

A Director.

A Professor of Mathematics.

A Professor of Geography and Natural Philosophy.

An Architect.

One Designing and Drawing Master.

The Fundamental School is designed to form Engineers, including Geographical Engineers, Miners, and officers for the Artillery, Cavalry, Infantry, and Navy; consequently, in this school is to be taught all the sciences necessary to a perfect knowledge of the different branches of the military art.

The School of Engineers and Artillerists, to teach those admitted therein, and appointed or designed for Engineers, the application of the theoretic knowledge which they had acquired in the Fundamental School, to the construction of all sorts of fortifications and military buildings appertaining thereto, to mines, and counter mines, sieges, attack, and defence, to mineralogy, to the art of projecting and constructing bridges, roads, canals, and maritime posts, and all works relative thereto, to all geographic and topographic operations, the calculations relative to the same, to designing and drawing charts, &c.

To those appointed or designed for the Artillery service, the application of the theoretic knowledge, acquired in the Fundamental School, to the construction of gun-carriages, pontoons, the fabrication of cannon and fire-arms, and all the manœuvres of war which depend upon artillery.

The School of Cavalry and Infantry, to teach those admitted therein, and appointed to, or destined for, the cavalry, the tactics, exercise, and police of cavalry; those for the infantry, the tactics of infantry, and all that concerns the police of an army, in the field and in quarters.

The School of the Navy, to teach those appointed to, or destined for, this service, the application of the knowledge acquired in the Fundamental School in arithmetic, algebra, geometry, statics, and navigation. To this end, after having passed examination, they shall make voyages or

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cruises, under skilful officers, for certain periods, during which time they ought to be exercised in the manœuvres and observations most useful in service, and be instructed in whatever respects rigging of vessels of war, pilotage, and the management of cannon.

Functions of the principal officers.

The Director General to have the general superintendence of the schools, particularly of the Fundamental School; to occupy himself incessantly with the means of attaining the end of the institution, which is the greatest possible instruction to the pupils.

He will inform himself of their progress in the studies relative to the service to which they are destined, and collect all the facts proper to be laid before the President: to enable him to form an opinion of the fitness of any individual, who has not had one, for an appointment; or, in case he has, to judge how, and when, his talents can, upon occasion, be most beneficially employed.

He will attend, particularly, to the execution of whatever respects the admission of pupils; their transfer from the school of theory into that of practice; their passage from one class or division, in the same school, to another; and the examinations which they ought respectively to undergo.

He will propose a list of the officers of the Army, proper to be received into the schools, and will furnish the Secretary of War with information, from time to time, relative to their progress, conduct, and capacity to fill stations to which their genius and knowledge may particularly point.

He will give such certificates to the officers, cadets, or pupils, as they shall have merited.

The directors of each of the military schools will receive, from the Director General, instructions detailing their functions and powers; to him they will make their reports.

With respect to the School of the Navy, the director thereof will receive his instructions from the Secretary of the Navy.

The Director General, and the other directors, to be officers of the Army or Navy, according as the studies and exercises of the particular school shall be most intimately connected with either service.

These schools to be provided with proper apparatus and instruments, for philosophical and chemical experiments, for astronomical and nautical observations, for surveying, and such other processes as are requisite to the several topics and branches of instruction.

The site of schools of Engineers and Artillerists, and of the Navy, ought to be on navigable water. For this purpose, a piece of ground ought to be purchased, sufficient for experiments in tactics, gunnery, and fortification. The situation upon a navigable water is also requisite, to admit of specimens of naval construction and naval exercises.

It would also tend greatly to the perfection of the plan, if the academy of Artillerists and Engineers was situated in the neighborhood of foundries of cannon and manufactories of small arms.

Barracks and other proper buildings must be

erected, for the accommodation of the directors, professors, and students, and for the laboratories and other works to be carried on at the respective schools.

The cadets of the Army, and a certain number of young persons, destined for military and naval service, ought to study at least two years in the Fundamental School; and if destined for the corps of Engineers or Artillerists, or for the Navy, two years more in the appropriate school; if for the Cavalry or Infantry, one year more in the appropriate school. But persons who, by previous instruction elsewhere, may have become acquainted with some or all of the branches taught in the Fundamental School, may, after due examination by the directors and professors of that school, be either received then for a shorter time, or pass immediately to one or other of the schools of practice, according to the nature and extent of their acquirements and intended destination.

In addition to these, detachments of officers and non-commissioned officers of the Army ought to attend one or other of the schools, in rotation, for the purposes of instruction and exercise, according to the nature of the corps to which they respectively belong.

It may be noticed also in this place, that it would be a wise addition if Government would authorize such a number of sergeants, supernumerary to those belonging to the regiments on the establishment, as would suffice with them for an army of fifty thousand men. All the supernumeraries to receive, according to their capacities, instruction at the academy, and occasionally sent to do duty with the Army.

This outline of a Military Academy, which is conformable to that of similar institutions in other countries, particularly in France, is not meant to imply anything conclusive; the plan may be modified, perhaps, to advantage. At all events, it ought to be left with the President to proportion the number of cadets, and others, to be admitted into the schools, and to prescribe, definitively, relative to the requisites to entitle to admission, the periods of novitiate, transfers from the schools to particular corps, and whatever respects organization, regulations, and police.

And here it may be proper to observe, that though provision should be made by law for the proposed establishment, in its full latitude, yet it may be left in the discretion of the President to appoint so many of the professors and masters only, as experience shall show to be necessary.

Will it be thought superfluous to remark, relative to the utility of this institution, that it is from the military schools of France have issued those general and other officers, whose skill and recent achievements in war have rendered them subjects for military history, and enabled the present governors of that nation, successively, and almost instantaneously, to form immense disciplined armies.

Is it not greatly desirable to be so provided and prepared for all emergencies?

An enemy who meditates invasion will naturally examine what he will have to encounter before he undertakes it. Acting with common pru-

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dence, he must proportion his military array to the obstacles in fortifications and disposable force it will have to overcome, and which may be so stationed and improved, as to require from him an army and apparatus, expensive beyond his resources to support. Our country, by a skillful application of very moderate means, may thus avert from its bosom the most expensive and calamitous wars.

In treating upon such an institution, it was encouraging to reflect, that, happily, it coincided with your uniform wish to see our country placed in a situation which would entitle the just maxims of its policy to be respected, and enable it to meet any adverse accidents it may be reserved to encounter.

The measure proposed has also the high sanction of our late venerated President, whose talents and services were devoted, not to produce personal results, but to render a whole people great, flourishing, and happy.

"The institution of a Military Academy," this great man observes, in his last impressive speech, "is also recommended by cogent reasons; however pacific the general policy of a nation may be, it ought never to be without an adequate stock of military knowledge for emergencies. The first would impair the energy of its character; and both would hazard its safety, or expose it to greater evils, when war could not be avoided. Besides, that war might not often depend upon its own choice. In proportion as the observance of pacific maxims might exempt a nation from the necessity of practising the rules of the military art, ought to be its care in preserving and transmitting, by proper establishments, the knowledge of that art. Whatever argument may be drawn from particular examples, superficially viewed, a thorough examination of the subject will evince that the art of war is at once comprehensive and complicated; that it demands much previous study; and that the possession of it, in its most improved and perfect state, is always of great moment to the security of a nation. This, therefore, ought to be a serious care of every government; and, for this purpose, an academy, where a regular course of instruction is given, is an obvious expedient, which different nations have successfully employed."

Will not the patriotism and good sense of our country readily consent to found an institution, at a moderate expense, recommended by such authorities, and which must produce the happiest effects? And yet, it ought not to excite surprise, if, in a season of profound peace, the minds of a generality of a people, partaking of the public calm, should become inattentive to the storm that may be collecting at a distance. Are we in the midst of that profound calm, and can the eye perceive no cloud in the horizon? But, were the heavens without one threatening spot, and peace universal on earth, ought the watchmen of a nation to trust to such evanescent and deceptive appearances? And will not an intelligent people, instructed by the wisdom of ages, and having every reason to confide in those to whom they

have assigned the direction of their affairs, gladly see establishments arise, and arrangements made, which shall render the thunder harmless when it shall burst over their heads. In such conjunctures, (and such must happen to the United States,) corps of well-instructed officers and troops are to a country, what *anchors* are to a ship driven by a tempest towards a rocky shore.

Second—A modification of the two Regiments of Artillerists and Engineers, so as to create, instead thereof, one Regiment of Foot Artillerists, another of Horse Artillerists, and a third of Engineers.

It is conceived, that the entire union of the officers of artillerists and engineers in one corps, as in our present establishment, is not advisable. The art of fortification, and the service of artillery, though touching each other in many points, are, in the main, distinct branches, and each so comprehensive, that their separation is essential to perfection in either. This has been ascertained by long experience. Among the Powers of Europe, there is not one recollected, which, at the present day, is not conscious of this truth. When any of them have attempted to unite these corps, the disadvantages which resulted were soon felt to be so momentous, as to produce conviction that each required a separate organization. Such an union was once attempted in France.

According to an ordinance of the 8th of December, 1755, the artillery and engineer corps of that nation, which had been separate, were combined into one. The experiment, however, was of short duration. In 1758, the engineer corps was disjoined from the corps of artillery, and called, as before, the corps of engineers, since which time these corps have remained separate.

The two regiments of artillerists and engineers consist of the following officers, non-commissioned officers, and privates; each of, viz:

- | | |
|----------------------------------|------------------------------|
| 1 Lieutenant Colonel-commandant, | |
| 4 Majors, | |
| 1 Adjutant, | |
| 1 Quartermaster, | } each being a Lieutenant, |
| 1 Paymaster, | |
| 1 Surgeon, | |
| 2 Surgeon's Mates, | |
| 16 Captains, | |
| 32 Lieutenants, | besides the three above-men- |
| tioned, | |
| 32 Cadets, | |
| 4 Sergeant-Majors, | |
| 4 Quartermaster-Sergeants, | |
| 64 Sergeants, | |
| 64 Corporals, | |
| 1 Chief Musician, | |
| 10 Musicians, | |
| 128 Artificers, | |
| 768 Privates. | |

Let the regiments of foot artillerists and horse artillerists consist each, as follows, viz:

- | | |
|----------------------------------|----------------------------|
| 1 Lieutenant Colonel-commandant, | |
| 3 Majors, | |
| 1 Adjutant, | |
| 1 Quartermaster, | } each being a Lieutenant, |
| 1 Paymaster, | |

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- 1 Surgeon,
- 2 Surgeon's Mates,
- 12 Captains,
- 24 Lieutenants, besides the three above-mentioned.
- 24 Cadets,
- 3 Sergeant-Majors,
- 3 Quartermaster-Sergeants,
- 48 Sergeants,
- 48 Corporals,
- 1 Chief Musician,
- 12 Musicians,
- 780 Privates, including Artificers.

The artificers forming a part of each company in the regiments as they now exist, to form two companies of miners, and two companies of artificers, to be arranged as will be hereafter noticed.

It is also proposed: First, In the event of a war, that these two regiments shall be augmented to the complement of officers and men, composing the existing regiments of artillery and engineers. Second, That the regiment of horse-artillery shall perform their service on horseback during war only. Third, That provision be made to enable the President of the United States, in case war shall break out between the United States and a foreign European Power, or in case imminent danger of invasion of their territory, by any such Power shall, in his opinion, be discovered to exist, to organize, and cause to be organized, two additional regiments of horse-artillery. Fourth, That the officers which shall become supernumerary, by this aforesaid organization, shall, at the discretion of the President, be transferred to fill vacancies in other regiments, on the establishment, corresponding with their grades, or be retained to fill appropriate vacancies which shall happen in their respective regiments, by deaths, resignations, &c.

In addition to the economical effect of the latter arrangement, it may be mentioned, that the officers to one whole battalion of the second regiment of Artillerists and Engineers have not yet been appointed.

The regiment of engineers consisting entirely of officers, if we exclude the companies of miners, it remains to speak of its organization.

Let it consist of, viz:

- Two Lieutenant Colonels, one first and one second, as already provided by law,
- Three Majors,
- Twelve Captains,
- Twenty-four First Lieutenants,
- Twenty-four Second Lieutenants,
- Twenty-four Cadets.

The companies of miners and their laborers to be under the direction and immediate command of officers of this corps, and to make a part thereof.

It will be perceived, and it is observed with regret, that, the engineer regiment cannot be immediately formed, by the mere act of transferring into it officers from any of the existing regiments. In order to answer its high destination, it must be filled slowly, and under the exercise of great caution and responsibility.

For this purpose, selections may be made from among the officers of the army, and others who shall have passed through the military schools, and prescribed examinations, and obtain certificates of their possessing the requisite knowledge and qualifications.

It may also be permitted, in cases of uncommon urgency, requiring the completion of the corps, to choose officers among our citizens, whose professions or functions are most analogous to those of engineers, after an examination made by a special commission named by the President.

But let it be remembered, that this corps is too essential to the success of military operations, to be hurried in its formation, or composed of other than persons qualified to discharge its high and important functions. Is authority necessary to support this truth? A general, of the first reputation as a commander, observes on this subject, in speaking to his Government of an officer, who had been killed in action, "He was the best officer of engineers, a body on which so much of the success of campaigns and the fate of a country depend, and where the least fault may be attended with the most fatal consequences."

The horse-artillery being a subject that cannot fail to attract attention, it will not, it is conceived, be deemed superfluous to submit a few observations and facts, relative to its structure, advantages, and importance.

The Prussians were the first who employed horse-artillery, invented by the great Frederick, at a time when the league which was formed against him, called upon his genius to multiply his resources. It was then, that the same army, transported with a celerity and precision, till then unknown in war, was seen to triumph against superior forces during the same campaign, upon opposite frontiers, to the east and to the west of his States. It was then were seen horse-artillery accompanying strong advanced bodies of cavalry without embarrassing, or retarding, their rapid marches and evolutions.

Horse-artillery was introduced into the *Austrian* army during the reign of *Joseph II.*, but it was not made a principal object, and remained in a state of imperfection. The cannoniers were transported upon the ridges of covered caissons, stuffed in the attitude of men on horseback. These carriages were called *Wurst-wagen*.

Some attempts were made in *France* to introduce the horse-artillery before the Revolution there; the subject, however, was not well understood; the general officers, who were present at the attempt, proposed to place the cannoniers, like the *Austrians*, on *wursts*.

In 1791, Mr. Duportail, Minister of War, authorized the commandant of the division of Mity to form two companies of horse-artillery. The success of this experiment was decisive, and answerable to the minister's expectations. The officers and men were in a few weeks in a condition to manoeuvre with light troops.

In 1792, Mr. Narbonne, who succeeded to Mr. Duportail, composed a committee of the most enlightened officers of the army, to examine and

decide upon the means of improving and extending, in the French army, the use of horse-artillery.

As no better idea can be given of this new military arm, than what is reported of the result of this conference, the Secretary takes the liberty to introduce it.

These officers resolved, as fundamental points—

1. That a numerous horse-artillery well served, and kept complete in cannoniers and horses, was the most certain means to protect the evolutions of troops *indifferently instructed*, to support their attack with bayonets, and to render null, by positions seasonably taken and with celerity, the advantage which troops *better disciplined*, might confidently promise themselves from superiority in manœuvres.

2. That with respect to the employment of this arm, the rules of service, instruction, &c., the horse-artillery ought to differ from the field-artillery only, in having its pieces so managed, as to be drawn with the utmost celerity wherever they can produce the greatest effect, and in the cannoniers being able to follow their guns, and commence action as soon as they are placed.

3. That to fulfil this object, it is more convenient to have the cannoniers all mounted on horses, than a part of them on *wursts*, because on horses they are less subject to accidents, their movement more rapid, their retreat more secure, and the replacing of horses easy.

4. That without excluding any caliber, it appears pieces carrying balls of eight and twelve pounds, and howitzers, may be most advantageously employed.

5. That it is unnecessary to discipline a horse-artillerist in the manœuvres of cavalry; that this would be a departure, without utility, from the principal object; that it is enough for him to know to sit firm on his horse, to mount and descend quickly, and conduct him boldly; that it is not requisite to oblige him to preserve any order in following his piece, leaving it to his intelligence to learn, if he chooses, to execute the manœuvres of cavalry.

6. That the manœuvre, *à la prolonge*, ought to be employed in every case in which it is practicable to use it. That the horses remain attached while the pieces are firing; one gains thereby all the time which would be lost in removing or replacing the *avant train*, and thus one may pass fosses and rivers with the utmost celerity, and profit of positions.

7. That in order to form at once a requisite number of companies of horse-artillery, without weakening the artillery regiments, it is sufficient to employ for every piece two skilful cannoniers, and to draw upon the infantry for the rest.

On these principles the French have organized an establishment in their armies, from which they have derived the most important advantages in most, if not all their campaigns.

The decisive agency of horse-artillery in *offensive war* was manifested in the invasion of Belgium by General Dumouriez, at the end of his campaign in 1792. The affair of Waterloo is

equally in point, as to its superiority in *defensive operations*.

Whilst General Pichegru commanded the army of Flanders, four thousand cavalry, manœuvring with his horse-artillery, sustained the immense effort of an army of thirty thousand men, supporting an artillery chiefly of a different kind, of at least triple the force of that opposed to it.

Bonaparte, at the battle of Castiglione, after raising the siege of Mantua, having re-assembled several divisions of his horse-artillery in a well-chosen position, under General Domartin, broke, by their means, the Austrian line, and thus decided a victory upon which depended the most important consequences in his favor.

It is also certain, that the horse-artillery contributed not a little to gain the battle of Ettingen, where General Moreau, very inferior in cavalry, maintained, by its means, his left wing against the whole cavalry of the Archduke. The application of the horse-artillery procured to General Hoche, upon the Rhine, in the late affair of Neuvied, like success.

The Archduke Charles, instructed by such events, has greatly augmented and improved this arm of the Austrian army. The English, also, have lately introduced horse-artillery into their service, but, it is supposed, too sparingly to derive therefrom its full effect.

Can an agent, so superior in all offensive and defensive operations, and so vastly important from its nature, as well as the use made of it by other nations, be dispensed with in the composition of our army, or neglected with impunity?

The author of a recent work, entitled "*Précis des évènements militaires*," published in numbers at Hamburg, from which most of the aforesaid facts respecting this powerful military agent have been taken, observes, "that it is become indispensable in all armies; it can accompany almost everywhere cavalry; it crosses rivers and morasses impassable to foot artillery; it thunders in mass and with great rapidity upon an unexpected point of attack; turns a body of the enemy; takes him in flank or rear; can perform the service of advance posts; of artillery position; of the rear guard, and, in fine, that of a corps of reserve, from which detachments may be made as wanted. It is free from the inconvenience ascribed to foot artillery, of retarding and restraining the manœuvres and marches of troops; the French have, therefore, already confined the use of foot artillery to the service of sieges, with the exception of four pounders, which they have yet left attached to battalions."

Horse artillery would seem to be peculiarly recommended to the United States, by the reflection that all attacks on the seaboard must be made by an enemy, water borne from a distant country, who will consequently be ill provided with horses, whereas the United States, having a knowledge of this agent, and resorting to their resources in horses, might be able to oppose a horse artillery so superior and so promptly, as to give decided advantages in attack or defence, and relieve their territory from being ravaged, or long possessed in

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any part of it. If the United States shall prevent an enemy from procuring the horses of the country, and shall maintain a superiority in this forcible arm, they will have little to fear from invaders, however powerful in infantry.

The two regiments of artillerists and engineers, as they now stand on the establishment, cost the United States four hundred and twenty-seven thousand five hundred and fifty-three dollars and eighty cents annually. There will result from the proposed arrangement of these regiments, as will appear by schedule A, a difference in time of peace of twenty thousand nine hundred and fifty-five dollars and thirty cents annually, which sum may be applied to the expenses of the Military Academy.

When the preceding propositions are respectfully submitted, as essential to the improvement of our Military Establishment, it would be improper to overlook such other measures as may occur, and, it is believed, would conduce to perfect our preparations for securing our rights.

The importance of the volunteer associations or companies, which may be accepted under "An act authorizing the President to raise a Provisional Army," passed the 28th May, 1798, has heretofore been presented by the Secretary. They may be considered as a reserve body, from which prompt and efficient reinforcements can be drawn to our regular army, and as rallying and supporting points, when completely organized into regiments, brigades, and divisions, for the militia, in all cases of great and comprehensive urgency or danger.

A revision of the law respecting these valuable associations is earnestly recommended. No other force being so economical, will it not be proper, in order to derive full and permanent utility from the volunteer companies in all hazardous conjunctures, that the power of the President to accept their patriotic offers of service should no longer be confined to a limited period, and that the duration only of their engagements, after acceptance, should be defined by law. Can a time be fairly presumed to arrive when we can have nothing to apprehend from either foreign or domestic enemies?

An omission in the law to provide the same compensation to the volunteer cavalry, for the use of their horses, that is allowed to militia cavalry, when in actual service, has been felt with some sensibility by the former, who were employed during the last insurrection in the same service with militia cavalry. It is, therefore, recommended that an appropriation be made for compensating the volunteer cavalry so employed, for the use of their horses during their service, at the same rates of allowance which have been paid to the militia cavalry on the same service; and that equal rates of compensation for the future shall be provided for both by law, for the use of their horses in actual service.

The militia of the United States ought to be considered as an essential arm of our defence, and a sure resource from which reinforcements may be drawn to supply deficiencies in the regular army, in the event of a sudden invasion, or the wasting progress of a long war.

To obtain their aid, however, with celerity and order in such cases, other provisions are necessary than are to be found at present in the laws.

The act of the 28th February, 1795, authorizes the President, whenever the United States shall be invaded, or in imminent danger of invasion from any foreign nation or Indian tribe, to call forth such numbers of militia of the State or States adjoining, most convenient to the place of danger or scene of action, as he may judge necessary to repel such invasion, and to issue his orders for the purpose to such officer or officers of the militia as he shall think proper.

To give effect to this power, and enable the President to carry upon an enemy with promptitude the force nearest to, or best calculated to, annoy him, it is indispensable that he should know the number and species of militia in each county of a State, and the names and places of residence of their officers respectively.

If these particulars are not precisely known to the President at the time the force is wanted, the delay which must necessarily intervene in the circuitous course of orders and instructions, will often, if not always, be productive of disastrous consequences. To avoid these, the proper officer of the militia in each State should be obliged, by heavy penalties and high responsibility, to make quarterly returns to the Department of War, comprehending the aforesaid particulars.

The troops raised under, and conformably to the provisions of "An act to augment the Army of the United States, and for other purposes," passed the 16th July, 1798, demand at this time particular attention.

This additional force was to consist of twelve regiments of infantry and six troops of cavalry, the latter intended, with the troops of cavalry heretofore and now in service, to form one regiment of cavalry. For the infantry, the officers have been appointed, and the recruiting service some time in operation. For the cavalry, the officers have also been appointed; but, to avoid the expense of this kind of troops, which is always much greater than any species of foot, the recruiting service has not been ordered as yet into operation, nor have horses been purchased, although preparatory measures have been taken.

For the twelve regiments of infantry, the enlistments amount as follows, according to the last returns which have been received by the Department:

From the fifth regiment, which is the first of the twelve, there has been no returns.

Returned for the sixth regiment, enlisted in North Carolina, from August to December, 1799, viz: 134.

For the seventh, enlisted in Virginia, from May to the first Monday in November, 1799, viz: 258.

For the eighth, enlisted in Virginia, from May to October the 1st, 1799, viz: 424.

For the ninth, enlisted in Maryland, from May to September the 17th, 1799, viz: 314.

For the tenth, enlisted in Pennsylvania, from May to August the 1st, 1799, viz: 448.

For the eleventh, enlisted in New Jersey, Penn-

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sylvania, and Delaware, from April to the first Monday in October, 1799, viz: 458.

For the twelfth, enlisted in New York, from May to the first Monday in September, 1799, viz: 287.

For the thirteenth, enlisted in Connecticut, from May to the first Monday in November, 1799, viz: 371.

For the fourteenth, enlisted in Massachusetts, from May to the first Monday in November, 1799, viz: 327.

For the fifteenth, enlisted in Massachusetts and Maine, from June to the first Monday in November, 1799, viz: 145.

For the sixteenth, enlisted in New Hampshire, from July to the first Monday in November, 1799, viz: 233.

Total enlisted, 3,399.

Agreeably to the provisions of the act of the 16th July, 1798, all these troops have, by the terms of their respective enlistments, engaged "for and during the continuance of the existing differences between the United States and the French Republic."

The Secretary thinks it necessary to mention that, immediately upon the accommodation of the existing differences aforesaid, the engagements of these troops will expire, and every man be entitled to demand his discharge. That, in consequence, if it shall be deemed expedient to keep up a Peace Establishment more extended than heretofore, or any events should intervene to render a larger army indispensable, it will not be practicable to apply one of these men to the same, who have already received a bounty, without a re-enlistment, and the expense of a new bounty.

It is, therefore, thought advisable that the terms of enlistment prescribed by the law be superseded by a provision in future to enlist for the term of five years, if not sooner discharged. This modification leaves with the President the power of reducing the numbers of the army at any time to a prescribed establishment; and if the negotiations of our Envoys to the French Republic shall be successful, it will procure a number of men who, without additional expense, can be retained, if necessary, in service for the period mentioned—a measure which appears equally recommended by its policy and economy.

The Secretary has before observed, that if the United States shall prevent an enemy from procuring the horses of the country, and maintain a superiority in horse artillery, they will have little to fear from an invading enemy, however powerful in infantry. It certainly would be an important addition to our system of defence, was an arrangement devised to deprive an enemy, as much as possible, after he had effected a landing upon our coast, of the means of subsistence, and especially to prevent him from possessing himself of horses, indispensable to the transportation of his baggage, stores, and provisions, and for his artillery and cavalry.

An operation promising to be so efficient, and sanctioned by experience in other countries, will perhaps require on the part of the Government a

promise of indemnification to the individual for the value of all stock and horses which may be removed in consequence of invasion, if not restored to their respective owners.

Provisions and restrictions, it is conceived, may be made, calculated to secure the public against frauds, and to encourage, at the same time, the aid of proprietors themselves in the execution of such a law. It should explicitly provide that no compensation will ever be allowed for property of the kind described, destroyed either by the enemy or by our own army, to prevent its falling into the hands of an enemy; in all cases where it shall appear no previous preparation or exertion had been made use of to remove it, and authorize the destruction of all stock, and horses in particular, left in an exposed situation, when necessary, to prevent their being useful to an enemy, or employed against the armies of the United States.

The Government of a country blessed with every convenience for an extensive foreign trade, and peopled with inhabitants distinguished for their commercial spirit, will, from the natural operation of circumstances, and the impulse given by its citizens, consider it a duty to prepare either gradually or promptly, as policy, interest, or necessity, may dictate, the means of affording protection to its property on the ocean.

We find, accordingly, the foundation of a navy already laid, and its advantages so far felt as to induce a belief its progress will be permitted to keep pace with the purposes for which it was instituted. This navy, however, which is specially intended to protect trade, will in its turn require to be protected, when in harbor, by suitable fortifications. Without a place of safety to which it may retire from a superior fleet, the labors and resources of years may be destroyed in a single hour.

The fortifications erected for the defence of our cities and harbors cannot yet be considered competent to afford this security. Many new and extensive works, even at those places where the fortifications are advanced, will yet be required to render any of them a secure asylum for our navy.

Whenever, therefore, the harbors in which our dock yards and great naval deposits are to be established, and to which our navy may retire in time of war or danger, shall be determined upon, it will be indispensable to make them impregnable, if possible, to an enemy.

Schedule B will show the sums which have been appropriated and annually expended in fortifying our harbors since the "Act to provide for the defence of certain ports and harbors in the United States," passed the 20th March, 1794, and the balance remaining on the 1st October, 1799.

The Paymaster General of the Armies of the United States has been, agreeably to the provisions of the 15th section of "An act for the better organization of the troops of the United States, and for other purposes," quartered by direction of the late Commander-in-Chief, at the seat of Government, it being the station deemed most proper, to enable him to perform his functions with conve-

nience, facility, and the least probable risk of the public moneys.

The functions of this office are, by law, highly important—his trust is eminently responsible. All moneys for the pay of the armies pass through his hands, including military bounties and the subsistence and forage of officers, and he is the auditor, in the first instance, of all accounts for such objects.

The compensation provided for him is eighty dollars per month, with the rations and forage of a major. This compensation the Secretary conceives, not merely inadequate to remunerate the duties and responsibilities attached to the office, but insufficient for the decent support of a respectable character, and certainly none other should fill it.

It is, therefore, respectfully suggested to increase the compensation to the Paymaster General of the Armies of the United States, and submitted whether it might not be attended with some beneficial effect to vest him with a suitable brevet rank in the army.

The regularity, discipline, and, of course, the efficiency of all armies have always depended very essentially upon the system provided for their government. Impressed with this conviction, the Secretary takes the liberty to bring into your view, "the rules and articles for the better government of the troops raised, or to be raised, and kept in pay, by and at the expense of the United States of America." This system contains many excellent provisions, but experience has produced a pretty general wish among military men, that it could be submitted to a complete revision, as in many particulars it is presumed to require amendments.

This revision would be a very serious work, and there is reason to fear could not be undertaken, with a prospect of being speedily finished. Some things, however, can be done, which would be important improvements.

A great obscurity envelopes the provisions of the existing articles, respecting the power to appoint or order general courts martial. One construction, by confining the power to the General or Commander-in-Chief only, is inconveniently narrow, and has occasioned too great delay, as well in instituting courts, as in giving effect to their sentences. Another construction, which has been practised upon, (commandants of posts, as such, of whatever grade, having assumed the power of constituting general courts martial,) is too much diffused, and would place in too many hands a trust no less delicate than important.

To attempt to attain the proper medium by a more exact legislative definition, of the characters who may exercise the power, would perhaps be attended with difficulty, and might often not meet the new situations which are constantly occurring in the infinite combinations of military service. The expedient which has appeared most proper, is to give a discretionary authority to the President, to empower other officers, (than those the soundest interpretation has decided to be designated by the articles of war, viz: Generals, or those on whom a General's command has devolved,) to

appoint general courts martial, under such circumstances, and with such limitations, as he may deem advisable.

The provisions which refer the determination on sentences extending to the loss of life, or the dismissal of a commissioned officer in the time of peace, to the President, must no doubt have frequently been attended with perplexity to him, and are inconvenient, if not injurious to the service.

It is scarcely possible, for any but the military commander, to appreciate duly the motives which, in such cases, demand severity, or recommend clemency. To this, an accurate view of all the circumstances of the army, in detail, is often necessary. The efficacy of punishment, when requisite in an army, depends much on its celerity, and must be greatly weakened by the unavoidable delay of a resort to the Executive: during which delay, the mischief it was intended to remedy, may, and sometimes most probably will, have happened. The reasons mentioned induce an opinion, that it is expedient to empower the commanding general of an army, to decide upon, and command to be executed when proper, all sentences of general courts martial, except only such as respect a general officer. The responsibility of the commanding general to the President, and to his country, must insure a discreet exercise of the required authority, and its utility is manifest.

The best mode of treating the crime of desertion has been an embarrassing investigation in most countries. To fix upon a punishment, that gives the surest promise of checking or preventing the evil, or which, when it does happen, in its application will be most analogous to the generally received opinions of a country, and the habits of military life, is indeed difficult. The same punishment ought not, perhaps, to be applied to this crime, the most injurious to armies, and complicated in its nature, at all times and under all circumstances.

To punish it with death in time of peace in all cases, would, in this country, do violence to the popular habits of thinking. Whipping is found to be ineffectual. Confinement to hard labor, it is supposed, will produce more beneficial results, and courts martial have, in their discretion, been lately much influenced by this belief. As, however, our soldiers are enlisted for given periods, when an engagement is nearly expired, confinement would be an inadequate punishment, for it could not continue beyond the term of service, and although a soldier may be supposed to have fewer inducements to withdraw from an engagement which is near terminating, yet, it has sometimes happened, and may be expected in future, that men, under such circumstances, have been the authors of combinations, to revolt, desert, and commit other crimes, consequently have been the most atrocious offenders; and it is known that they frequently have themselves deserted. To make this punishment, then, in time of peace, in all cases, commensurate with, and proportioned to, the crime, an auxiliary provision to extend the confinement and labor beyond the period of service the criminal had engaged for, would appear necessary. Such a provision would have a ten-

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dency to render the sentences of the courts less sanguinary.

The Secretary by no means designs to suggest, that it would be proper to abolish the punishment of death for desertion, even in time of peace. He considers that in aggravated and complicated cases, it would always be proper, and that in time of war or civil commotion, it should always be applied to this crime. He also inclines to the opinion, that the power of pardoning ought never to be extended in any instance of desertion, or an attempt to desert to enemies or traitors.

Connected with the perfection of our military establishment, is a code of well digested rules for the formations, field exercise, movements, and police, of the different species of troops composing our army.

Major General Hamilton has, some time since, been specially charged with this work. As it was not, however, expected that so extensive an undertaking could be completed without a subdivision of labor, and the co-operation of various talents and experience, he informs, that he has assigned to Major General Pinckney an important portion of the task. The execution, it is also understood, will require the aid of other and subordinate officers, for whose extra service a special compensation is suggested, as being agreeable to usage, and essential to a cheerful and zealous performance of their duty. This, should it meet your approbation, demands no particular act of the Legislature.

There is another point relative to the army, which he has made the subject of a recent communication to the Department of War, to which it may be proper to request attention.

The General observes, that "the detaching from their corps soldiers asservants to the various officers of the general staff is productive of material inconvenience, by withdrawing altogether, from military service, a considerable number of persons; and occasioning dissatisfaction to the commandants of corps, who never see their men removed without uneasiness, and are sometimes much disgusted by the selection of those whom they are anxious to retain. There is no doubt, he adds, that it would operate beneficially, if, after fixing the number of servants to which the several characters of the general staff should be entitled, they were to be allowed an equivalent in money, regulated by the cost of a soldier to the public, and were to be required to provide their own servants."

Should this measure be adopted, which is agreeable to an obsolete regulation of the old Congress, penalties may be devised to secure a faithful execution, which, from the force of circumstances, would be very little liable to abuse.

When treating upon military subjects, it may not be improper to give a general view of the positions of the existing regular force, composing the armies of the United States, conformably to a disposition of the same by your approbation, and that of the late commander-in-chief.

The four regiments of infantry, and the two companies of cavalry, on the permanent establishment, are disposed of as follows:

One regiment is assigned to the frontiers of Tennessee and Georgia. There are also in that quarter the two companies of cavalry.

The three other regiments are distributed along the lakes from Niagara to Michillimackinac, upon the Miami, Ohio, Mississippi, and Tombigbee.

There is also one battalion of the artilleryists and engineers distributed with the aforesaid troops.

This entire force is manifestly inadequate to the purposes it is intended to answer on our Northern, Western, and Southern frontiers.

The twelve regiments of infantry now raising, have taken, or are to take, the following provisional positions, viz:

Three of the twelve regiments of infantry in the vicinity of Providence river, near Uxbridge, Massachusetts.

Three regiments in the vicinity of Brunswick, New Jersey.

Three regiments in the vicinity of Potomac near Harper's Ferry, Virginia.

Three regiments in the vicinity of Augusta, above the Falls of Savannah.

This disposition, it is conceived, combines considerations relative to the discipline and health of the troops with the economical supply of their wants. It has, also, some military aspects, in the first instance, towards the security of Boston and Newport; in the second, towards that of New York and Philadelphia; in the third and fourth, towards that of Baltimore, Charleston, Savannah, and the Southern States generally, and in the third, particularly towards the reinforcement of the Western army.

The residue of the two regiments of artilleryists and engineers, except one battalion stated to be on our Northern, Western, and Southern frontiers, are stationed in our sea-board fortifications, from Portland, Massachusetts, to the St. Mary's, Georgia. From these are to be drawn two battalions in succession for the army, when in the field, with a view to a course of regular instruction.

Schedule C exhibits the actual force (according to the latest returns) of the four regiments of infantry, and two companies of cavalry on the old establishment, and the two regiments of artilleryists and engineers.

All which is respectfully submitted.

[The tabular statements are omitted.]

MILITARY ACADEMY.

[Communicated to the House, Feb. 13, 1800.]

WAR DEPARTMENT, Jan. 31, 1800.

SIR: I have the honor to submit, in compliance with your requisition, a few supplementary observations, and a view of the probable expense of the military schools respectfully recommended to consideration in my report, communicated to Congress by a Message dated the 13th instant from the President of the United States.

The report contemplates certain military schools as an essential means, in conjunction with a small

Military Establishment, to prepare for, and perpetuate to, the United States, at a very moderate expense, a body of scientific officers and engineers, adequate to any future exigency, qualified to discipline for the field, in the shortest time, the most extended armies, and to give the most decisive and useful effects to their operations.

It is not conceived that the United States will ever think it expedient to employ militia upon their frontiers, or to garrison their fortified places in time of peace, nor that they will be disposed to place their reliance, for defence, against a foreign invading enemy, upon militia alone, but that they will, at all times, maintain a body of regular troops commensurate with their ability to maintain them, and the necessity or policy that may demand such an establishment.

To qualify and keep our citizens, in general, of suitable bodily ability, prepared to take the field against regular forces, would demand the most radical changes in our militia system, and such an uninterrupted series of training, discipline, and instruction, to be applied as well to the officers as to the men, as comports with regular troops only, while in its results the measure would be found, on account of the loss to the community, occasioned by the abstraction from labor or occupation, and direct cost, greatly to exceed in expense what would be required to support a moderate Military Establishment. This position, which is thought to be a sound one, does not bring into view the effects of the measure upon the morals, industry, and habits of the citizens.

Practically considered, may we not as well calculate to be commodiously lodged, and have the science of building improved, by employing every man in the community in the construction of houses, and by exploding from society, as useless, architects, masons, and carpenters, as expect to be defended efficiently from an invading enemy, by causing every citizen to endeavor to make himself master of the several branches of the art of war, and excluding engineers, scientific officers, and regular troops?

There is certainly, however, a system, as it respects our militia, which, if resorted to, and persevered in, may secure the utility of their services in times of danger, without much injury to the morals, or materially affecting the general industry of the nation.

When the perfect order and exact discipline which are essential to regular troops are contemplated, and with what ease and precision they execute the different manœuvres indispensable to the success of offensive or defensive operations, the conviction cannot be resisted, that such troops will always have a decided advantage over more numerous forces composed of uninstructed militia or undisciplined recruits.

It cannot yet be forgotten, that, in our Revolutionary war, it was not until after several years' practice in arms, and the extension of the periods for which our soldiers were at first enlisted, that we found them at all qualified to meet in the field of battle those to whom they were opposed. The occasional brilliant and justly celebrated acts of

some of our militia, during that eventful period, detract nothing from this dear bought truth. With all the enthusiasm which marked those days, it was perceived, and universally felt, that regular and disciplined troops were indispensable, and that it was utterly unsafe for us to trust to militia alone the issue of the war. The position, therefore, is illustrated, that, even in times of the greatest danger, we cannot give to our militia that degree of discipline, or to their officers that degree of military science upon which a nation may safely hazard its fate.

The great man who conducted the war of our Revolution was continually compelled to conform his conduct to the circumstances growing out of the experimental lessons just mentioned. What was the secret of his conduct? Must it be told? It may be, and without exciting a blush or uneasy sensation in any of his surviving companions in arms. He had an army of men, but he had few officers or soldiers in that army. Both were to be formed, which could not be effected in a single campaign, or while his regiments were continually returning home, and, like the waves of the sea, each in their turn lost in the abyss, and succeeded by new ones. It was not till after he was furnished with a less fluctuating and more stable kind of force that he could commence with a prospect of advantage, military instructions, or enforce the ordinances of discipline; and, even then, he felt that time and instructors were required to render his labors useful, and enable his army to meet the enemy upon anything like equal terms. Are we to profit by, or is this experience to be lost to our country?

The art of war, which gives to a small force the faculty to combat with advantage superior numbers indifferently instructed, is subjected to mechanical, geometrical, moral, and physical rules; it calls for profound study; its theory is immense; the details infinite; and its principles rendered useful only by a happy adaptation of them to all the circumstances of place and ground, variously combined, to which they may be applicable. Is it possible for an officer of militia to obtain a competent knowledge of these things in the short space his usual avocations will permit him to devote to their acquisition? Is it possible for any officer, having acquired a knowledge of these details, this theory, and these principles, to carry them into useful practice with a handful of militia, in the few days in each year allotted by law to trainings and exercises? Is that perfect subordination and obedience of men to their officers, and of each inferior to his superior officer, through all the grades of rank, from the corporal up to the commander-in-chief, which forms a vital principle essential to the energy and force of armies, to be acquired by, or communicated to, a body of militia organized and trained according to our laws? And does it consist with a humane and enlightened policy to march men so imperfectly instructed and disciplined, unless in cases of the last extremity, against veteran troops, (where this principle reigns in full activity,) commanded by skillful and scientific officers? Admitting, how-

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ever, that militia officers, during the few months the law permits their corps to be retained in actual service, could render their men, by incessant instruction, capable of fulfilling the object of their destination; yet, as that advantage is but momentary, as these borrowed instruments must be quickly returned to the depot which furnished them, as new ones must be resorted to, and successively instructed, what can be expected from such a system, but perpetual incoherence between the means and the end, and certain shipwreck to the best connected and combined military projects? This, to be sure, is the old story; it cannot, however, be too often repeated, because it can never be refuted.

The secret of discipline, and the importance of military science, were well known to those ancient Governments whose Generals and troops have filled the world with the splendor of their victories. According to *Scipio*, nothing contributed to the success of enterprises so much as skill in the individual officers. The severity of the Roman discipline is well understood, and the estimation in which it was held by *Cæsar*. *Livy* has observed, that science does more in war than force. *Vegetius*, that it is neither numbers nor blind valor which insures victory, but that it generally follows capacity and science in war. *Machiavel*, who has written upon military affairs, placed so much dependence on an exact discipline and military science, as to efface from his list of great Generals all those who with small armies did not execute great things: but to the committee it is unnecessary to repeat the authorities of Generals and writers of the first reputation, to show the high importance attached to military science and discipline in all ages of the world, or resort to history for evidence of its effects. They must be well acquainted with the facts, and, no doubt, will give them their due weight in considering the subjects now before them.

There is, however, an authority, so much in point relative to the essentiality of the institution in question, that I cannot forbear to mention it.

The Marshal de *Puisegur*, who has left an excellent treatise on the art of war, the result of his experience, observes:

"I have been, perhaps, at as many sieges as any of those in service, and in all sorts of grades; as subaltern, I have commanded troops and working parties in a siege; as major I have conducted to the trenches and posts to which they were destined troops and laborers; I have been major of brigade, marshal de camp, and lieutenant general: however, as I have not learned fortification, my practice has not enabled me to acquit myself in conducting attacks, so that I should be obliged to suffer myself to be instructed in many things by the lights of engineers, their practice being founded upon principles which are known to them, an advantage I have not in this branch of war."

This is the candid acknowledgment of a man who had served sixty years in the army; who had learned the military art under a father; that, in forty years service, had been present at two hundred sieges; and who had himself passed through

all the military grades, and arrived from an inferior to a superior rank, but after having deserved each successive promotion by some distinguished action.

A slight attention to circumstances, and the actual position of our country, must lead to the conviction, that a well-connected series of fortifications is an object of the highest importance to the United States, not only as these will be conducive to the general security, but as a means of lessening the necessity, and consequently the expense of a large Military Establishment.

By strongly fortifying our harbors and frontiers, we may reasonably expect, either to keep at a distance the calamities of war, or render it less injurious when it shall happen. It is behind these ponderous masses only that a small number of men can maintain themselves, for a length of time, against superior forces. Imposing, therefore, upon an enemy who may have everything to transport across the Atlantic, the necessity of undertaking long and hazardous sieges, increases the chances against his undertaking them at all, or, if he does, in despite of such circumstances, insures to us the time he must consume in his operations, to rally our means to a point, and unite our efforts to resist him.

We must not conclude, from these brief observations, that the services of the engineer is limited to constructing, connecting, consolidating, and keeping in repair fortifications. This is but a single branch of their profession, though indeed a most important one. Their utility extends to almost every department of war, and every description of general officers, besides embracing whatever respects public buildings, roads, bridges, canals, and all such works of a civil nature. I consider it, therefore, of vast consequence to the United States, that it should form in its own bosom, and out of its own native materials, men qualified to place the country in a proper posture of defence, to infuse science into our army, and give to our fortifications that degree of force, connexion, and perfection, which can alone counterbalance the superiority of attack over defence.

With these advantages in prospect, is it not incumbent upon us to hasten, with all reasonable diligence, the commencement and completion of an institution essential to realize them: and are expenditures, which give such valuable results, to be otherwise viewed than as real economy? It is a well known fact, that England had neither native artillerymen nor engineers before the time of the Duke of Cumberland, and till after she established military schools.

I shall now, having respectfully submitted these observations, present an estimate of the expense of the military schools, which it appears to me ought to be immediately instituted.

Agreeably to the plan of the Military Academy, the directors thereof are to be officers taken from the Army, consequently no expense will be incurred by such appointments.

The plan also contemplates that officers of the army, cadets, and non-commissioned officers, shall receive instruction in the academy. As the ra-

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tions and fuel which these are entitled to in the Army, will suffice for them in the academy, no additional expense will be required for these objects of maintenance while there.

The expenses of servants, and certain incidental charges relative to the police and administration, may be defrayed by those who shall be admitted out of their pay and emoluments.

According to the plan contemplated, fifty officers, cadets, or non-commissioned officers, may be annually instructed in the Fundamental School, and an equal number in the School of Artillerists and Engineers, the only schools which it is deemed expedient to bring into operation.

To instruct these may require, when both schools are in full activity, the following professors, viz:

In the Fundamental School.

Two professors of mathematics, at \$800 per annum, and two rations per day	-	-	1,848 20
Two professors of geography and natural philosophy	-	-	1,848 20
One professor of chemistry	-	-	824 10
One designing and drawing master	-	-	724 17
			<u>5,344 60</u>

In the School of Artillerists and Engineers.

One professor of mathematics, at \$800 per annum, and two rations per day	-	-	924 10
One professor of geography and natural philosophy	-	-	924 10
One professor of chemistry	-	-	924 10
One professor of architecture	-	-	924 10
Two designing and drawing masters, at \$600 per annum, and two rations per day	-	-	1,448 20
			<u>5,144 60</u>

Total - - - \$10,489 20

The cost of the buildings for these two schools, as the one or the other of the annexed plans shall be adopted will be, viz:

Plan by John Foncin, Engineer.

For the Fundamental School	-	\$19,423 00
The School of Artillerists and Engineers, supposed to cost an equal sum	19,423 00	
		<u>\$38,846 00</u>

Plan by B. H. Latrobe, Civil Architect and Engineer.

For the Fundamental School	-	\$40,000 00
The School of Artillerists and Engineers, supposed to cost an equal sum	40,000 00	
		<u>\$80,000 00</u>

It may be proper to remind the committee, that no appropriation for the School of Engineers and Artillerists will be required perhaps these two

years, or till after the completion of the Fundamental School.

The Secretary takes occasion also to mention, that the laws have already made provision for four teachers or professors to the artillerists and engineers, at a salary of eighty dollars per month, and two rations per day, which may be considered equivalent to four thousand three hundred and thirty-six dollars and forty-six cents per annum; and that the act providing for raising and organizing a corps of artillerists and engineers, passed the 9th May, 1794, makes it "the duty of the Secretary of War to provide, at the public expense, under such regulations as shall be directed by the President of the United States, the necessary books, instruments, and apparatus, for the use and benefit of the said corps."

According to the plan and estimate of the buildings by Mr. Foncin, the two schools will cost thirty-eight thousand eight hundred and forty-six dollars.

According to the plan and estimate by Mr. Latrobe, the two schools will cost eighty thousand dollars.

The modification of the two regiments of artillerists and engineers will liberate twenty thousand nine hundred and fifty-five dollars annually.

The establishment of the two schools will liberate the salaries of the four teachers before mentioned, or four thousand three hundred and thirty-six dollars annually.

The books, apparatus, and instruments, directed to be provided for the use of the artillerists and engineers, are considered as an adequate offset for the books, apparatus, and instruments, required for the use of the schools; consequently, no charge has been stated in the estimate for these objects.

If, therefore, we oppose the sums thus annually liberated to the annual salary of the professors and original cost of the buildings, whichever of the plans is adopted, we shall find the measure proposed, viewed merely in the light of an operation of finance, to result in a considerable saving to the United States.

An individual would think it a good bargain to receive twenty-five thousand two hundred and ninety-one dollars, annually, the sum liberated, and to give, in lieu thereof, ten thousand four hundred and sixty-six dollars, annually, the salary of the professors, and a principal sum, equal to the cost of the buildings. In other words, he would receive fourteen thousand seven hundred and twenty-five dollars, annually, which is equivalent, at six per cent., to a capital, or principal, of two hundred and forty-five thousand four hundred and sixteen dollars; a sum greatly exceeding the estimated cost of the buildings upon either estimate.

The committee, while they perceive that the seed, which it is now proposed to sow, is to yield a future harvest, will, at the same time, justly appreciate the various beneficial consequences which must result from the immediate adoption, and the striking inconveniences, and danger to be apprehended from a postponement of the measure.

Whether our country is to be plunged into a war, or enjoy, for a length of time, the blessings

Action between the Constellation and La Vengeance.

of peace and interior tranquillity; whether the portentous events which have afflicted Europe, and, in their progress, threatened the United States, are to subside into a settled state of things; whether the blessings of peace, and the customary relations, among the transatlantic Powers, are to take place, or hostilities shall be continued, protracted, and extended, beyond their present limits; in either view, it is equally a suggestion of policy and wisdom to improve our means of defence, and give as much perfection as possible to such establishments as may be conceived essential to the maintenance of our rights, and security from insults.

The unavoidable collisions growing out of trade, and the reciprocal restrictions of great commercial States; the apprehensions and jealousies natural to Powers possessing contiguous territory; the inefficacy of religion and morality to control the passions of men, or the interest and ambition of nations; the impossibility, at times, for governments to adjust their differences or preserve their rights, without making sacrifices more to be dreaded than the hazards and calamities of war: all these considerations, illustrated by volumes of examples, teach the soundness of the axiom, *si vis pacem para bellum*. And what time more proper to prepare the materials for war than a time of peace, or more urgent, than that in which a nation is threatened with war?

I have the honor to be, with the greatest respect, sir, your most obedient servant,

JAMES MCHENRY,
Secretary of War.

HARRISON G. OTIS, Esq.,
Chairman of the Committee of Defence.

ACTION BETWEEN THE CONSTELLATION AND LA VENGEANCE.

[Communicated to the House of Reps., March 21, 1800.]

NAVY DEPARTMENT, *March 20, 1800.*

In obedience to the order of the House of Representatives of the United States, of the 18th instant, the Secretary of the Navy has the honor to lay before the House a copy of Captain Truxtun's letter of the 3d of February, together with a copy of the extract from his journal, referred to in the said letter, detailing the particulars of the engagement between the Constellation, under his command, and a heavy French ship, mounting, as he supposed, fifty-four guns.

The Secretary has received a number of letters too voluminous to trouble the House with, of dates both prior and subsequent to the action, which leave no doubt on his mind that the French ship, so gallantly defended against the bravery and superior skill of Captain Truxtun, is the same that arrived at Guadaloupe from France, in the month of December last, called La Vengeance, mounting fifty guns or upwards.

In confirmation of this opinion, the Secretary takes the liberty of stating the substance of letter

received from Captain Baker, of the Delaware sloop of war, from B. H. Phillips, Esq., American Consul at Curaçoa, and from D. M. Clarkson, Esq., Navy Agent at St. Kitts.

Captain Baker, in a letter dated Curaçoa, 8th of February, mentions that a French ship, called La Vengeance, of fifty-four guns, had left Guadaloupe on her return to France, about the 1st of February, had a very severe action with the Constellation the following night, and arrived at Curaçoa on the 6th, in a most shattered condition; that he had understood she had lost one hundred and forty men in the action, and when she escaped from the Constellation had eight feet water in her hold.

Mr. Phillips, in a letter dated Curaçoa, 9th of February, to the Secretary of State, announces the arrival there of the French ship La Vengeance, of fifty-six guns, bound from Guadaloupe to France, with a valuable cargo, and a large sum of specie, in a very distressed situation, having lost one hundred and sixty men, killed and wounded, and her masts and rigging nearly all shot away, in an engagement of five hours, within pistol shot, with the Constellation.

Mr. Clarkson, at St. Kitts, in a letter dated 16th of February states "we are certain Captain Truxtun's gallant action was fought with La Vengeance, a French man of war of fifty-four guns, and five hundred picked men, from Guadaloupe to France."

As to the conduct of any particular officer, or other persons on board the Constellation, the Secretary has no information, except what is to be found in the communications from Captain Truxtun, by which, but still more by the result of this heroic action, it appears that all the officers and men on board the Constellation must have nobly performed their duty.

The praise of having pursued, for many hours, a ship known to be of force so greatly superior to his own, to bring her to action, and of conducting that action with so much skill as to compensate for his great inferiority of force, belongs exclusively to their gallant commander.

It cannot be necessary for the Secretary to add to the eulogium bestowed by Captain Truxtun, on the brave young midshipman, James Jarvis, who gloriously preferred certain death to an abandonment of his post.

All which is respectfully submitted.

BENJAMIN STODDERT,

Secretary of the Navy.

Hon. SPEAKER of the House of Reps.

Copy of a letter from Captain Thomas Truxtun to the Secretary of the Navy.

UNITED STATES' SHIP CONSTELLATION,
AT SEA, *February 3, 1800.*

SIR: I had the honor to address you the day after my arrival at St. Christopher's, the 21st ult., as per copy annexed; after which I made every exertion in my power to get the squadron, as well as my own ship, to sea, in the shortest time possible; and gave all the commanders of the different

Action between the Constellation and La Vengeance.

vessels orders to cruise separately, in certain situations, agreeably to the copies enclosed.

On the 30th I left St. Christopher's with the *Constellation*, in an excellent trim for sailing, and stood to windward in order to occupy the station I had allotted for myself, before the road of the enemy at Guadaloupe, where I was informed a very large and heavy frigate, of upwards of fifty guns, was then lying, and early on the next day I fell in with *L'Insurgent*, Captain Murray, and the prize brig *Conquest*, of Italy, that had been fitted out to cruise with him in those seas. After a short interview with Captain Murray, I requested him to proceed to St. Christopher's without loss of time, and call on our agent there, Mr. Clarkson, for letters that I had lodged for him, which pointed out his further destination. On our parting he immediately made sail to leeward, and I continued plying to windward. At half past seven, A. M., of the following day, I discovered a sail to the southeast, to which I gave chase; and, for the further particulars of that chase, and the action after it, I must beg leave to refer you to the extracts of my journal, which is also enclosed, as being the best mode of exhibiting a just, fair, and candid account of all our transactions in the late business, which has ended in the complete dismantlement of the *Constellation*, though, I trust, to the high reputation of the American flag.

I have just fell in with the *Enterprise*, Lieutenant Shaw, returning from Curaçoa, who I send off to you with my despatches, and I shall be obliged by your sending him again to meet me at Port Royal, Jamaica, as early as possible, as I shall be impatient to hear from you, especially as we are now in want of everything, being a mere wreck.

If I had met Captain Morris, of the *Adams*, I should have taken the command of that ship and kept the station to windward, leaving him in charge of the *Constellation* to be refitted at Jamaica; but I have not been so fortunate.

I have the honor to be, with great respect and esteem, your very obedient humble servant,

THOMAS TRUXTUN.

BENJAMIN STODDERT, Esq.,

Secretary of the Navy, Philadelphia.

A circumstantial account of the engagement between the United States frigate *Constellation*, of thirty-eight guns, and a French national frigate, of fifty-four guns, on the 1st of February, 1800; taken from Commodore Truxtun's Journal, viz:

SATURDAY, *February 1, 1800.*

At half-past seven, A. M., the road of Bassatterre, Guadaloupe, bearing east, five leagues distance, saw a sail in the southeast standing to the westward, which, from her situation, I at first took for a large ship from Martinico, and hoisted English colors, on giving chase, by way of inducement for her to come down and speak me, which would have saved a long chase to leeward of my intended cruising ground; but finding she did not attempt to alter her course, I examined her more attentively as we approached her, and discovered her to be a heavy French frigate, mounting at least

fifty-four guns. I immediately gave orders for the yards to be slung with chains, topsail sheets, &c., stoppered, and the ship cleared, ready for action, and hauled down the English colors. At noon the wind became light, and I observed the chase, that we had before been gaining on fast, held way with us, but I was determined to continue the pursuit, though the running to leeward, I was convinced, would be attended with many serious disadvantages, especially if the object of my wishes was not gratified.

SUNDAY, *February 2.*

At one o'clock, P. M., the wind being somewhat fresher than the noon preceding, and an appearance of its continuance, our prospect of bringing the enemy to action began to brighten, as I perceived we were coming up with the chase fast, and every inch of canvass being set that could be of service, except the bag reefs, which I kept in the topsails, in case of the enemy, finding escape from our thunder impracticable, should haul on a wind, and give us fair battle; but this did not prove to be her commander's intention; I, however, got within hail of him at eight P. M.; hoisted our ensign, and had the candles in the battle lanterns all lighted, and was in the lee gangway, ready to speak him, and to demand a surrender of his ship to the United States of America, when, at that instant, he commenced a fire from his stern and quarter guns, directed at our rigging and spars. No parley being then necessary, I sent my principal aid-de-camp, Mr. Vandyke, to the different officers commanding divisions on the main battery, to repeat strictly my orders before given, not to throw away a single charge of powder and shot, but to take good aim, and to fire directly into the hull of the enemy, and load principally with two round shot, and, now and then, with a round shot and a stand of grape, &c.; to encourage the men at their quarters, and to cause or suffer no noise or confusion whatever, but to load and fire as fast as possible, when it could be done with certain effect.

These orders being given, in a few moments I gained a position on his weather quarter, that enabled us to return, effectually, his salute, and thus as close and as sharp an action as ever was fought between two frigates, commenced, and continued until within a few minutes of one, A. M., when the enemy's fire was completely silenced, and he was again sheering off. It was at this moment that I considered him as my prize, and was trimming, in the best manner I could, my much shattered sails, when I found the mainmast was totally unsupported with rigging, every shroud being shot away, and some of them, in many places, so as to render stoppers useless, which in fact could not be applied with effect. I then gave orders for all the men to be sent up from the gun deck, to endeavor to secure the mast, in order that we might get alongside of the enemy again as soon as possible; but every effort was in vain, for it went over the side in a few moments after, and carried with it the topmen, among whom was an amiable young gentleman, who commanded the main top, Mr. James Jarvis, son of James Jarvis, Esq., of

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New York. This young gentleman, it seems, was apprized of his danger by an old seaman, but he had already so much the principle of an officer engrafted on his mind, not to leave his quarters, that he replied, if the mast went, they must go with it; which was the case, and only one of them was saved. I regret much his loss, as a promising young officer, and amiable young man, as well as on account of a long intimacy that had subsisted between his father and myself, but have great satisfaction in finding that I have lost no other, and only two or three were slightly wounded; out of thirty-nine of the crew killed and wounded, fourteen of the former, and twenty-five of the latter. As soon as the mainmast went, every effort was made to clear the wreck from the ship as soon as possible, which was effected in about an hour; and, as her security was then the great object, it being impossible to pursue the enemy, I immediately bore away for Jamaica, for repairs, &c., finding it impracticable to reach a friendly port in any of the islands to windward.

I should be wanting in common justice was I to omit here to journalize the steady attention to order, and the great exertion and bravery shown by all my officers, seamen, and marines, in the action, many of whom I had sufficiently tried before on a similar occasion, (the capture of the *Insurgent*,) and all their names are recorded in the muster-roll I sent to the Secretary of the Navy, dated the 19th of December last, signed by myself.

THOMAS TRUXTUN.

THE NAVAL ESTABLISHMENT, AND ITS EXPENSES.

[Communicated to the House of Reps., Jan. 15, 1801.]

NAVY DEPARTMENT, *Jan. 12, 1801.*

SIR: The report of the Secretary of the Treasury containing a statement of the appropriations necessary for the year 1801, includes the estimates of the expense of maintaining the Navy for the same year. It is unnecessary, therefore, for me to repeat them here.

But it will be observed that these estimates were formed on the idea of employing our whole force in cruising, as heretofore, for the protection of our commerce. Should the United States be so fortunate as to terminate, by an honorable treaty, the differences with France, it would be good economy to sell all the public vessels, except the following frigates:

The United States,	The New York,
President,	Constellation,
Constitution;	Congress,
Chesapeake,	Essex,
Philadelphia,	Boston,
John Adams,	Adams, and
General Greene.	

The rest were either built of materials which do not promise long duration, or are too small to form a part of the national defence. In future

wars, the United States will probably be influenced by the example of all other nations, to suffer the capture of vessels merely commercial from their enemy; and, in this event, the enterprising spirit of our citizens will quickly furnish, for private emolument, nearly all the small vessels necessary to be employed; and will thus add to the national means of annoyance, without adding to the national expense. In this view, it may be sufficient for the United States to attend principally to a provision for ships of the line and frigates.

The expense of maintaining the thirteen frigates herein enumerated, in constant service, and on the present establishment of numbers, pay, and rations, would amount, annually, to the sum of one million two hundred and twenty-five thousand and forty-eight dollars and seventy-three cents, as will be seen in paper No. 1. But, on a peace establishment, the ration, which is too large, ought to be reduced; seamen's wages will undoubtedly fall, on a general peace; and, in such a state of things, it would be unnecessary to employ, in each ship, more than two-thirds of the present number of able and ordinary seamen. The paper No. 2 contains an estimate of the annual expense of these ships on a peace establishment, and on the principle of keeping the whole of them in constant service, amounting to seven hundred and twelve thousand seven hundred and twenty-four dollars and thirty-five cents. The paper, No. 3, shows the expense of keeping only six of the frigates in constant service; the others remaining in port, but allowing half-pay to a sufficient number of commissioned officers and midshipmen for the ships so laid up, amounting to three hundred and eighty-seven thousand two hundred and fifty-seven dollars. In the paper, No. 4, there is added to the estimate, No. 3, the expense of allowing half-pay to all the commissioned officers and midshipmen at present in the service, making the whole amount to the annual sum of four hundred and forty-four thousand six hundred and seventy-seven dollars.

The act establishing and organizing the Marine Corps considers that corps as part of the Military Establishment, but subject to perform duty on ship-board, as well as in posts and garrisons on the seacoast, and elsewhere on shore. It is questionable, therefore, whether the expense of this corps ought to be provided for in the estimates of the War or the Navy Department. It is certainly, one of the most useful corps belonging to the United States; and is particularly advantageous in facilitating the means, and lessening the expense, of manning our ships; and affords to every vessel a body of experienced and disciplined men, always prepared for action. The war expense of this corps is two hundred and seventy thousand nine hundred and fifty-seven dollars and ninety-eight cents, per annum; in peace, the expense might be reduced to two hundred and seven thousand three hundred and ten dollars, per estimate No. 5, which, being added to the estimate No. 4, would make the whole amount to six hundred and fifty-one thousand nine hundred and eighty-seven dollars.

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The acts of Congress have appropriated one million of dollars towards building six seventy-four gun ships, and for procuring, arming, &c., six sloops of war, leaving about seven hundred thousand dollars to be applied towards the six seventy-four gun ships; also, two hundred thousand dollars for the purchase of growing or other timber, or of timbered lands, for the Navy, and for preparing proper places for securing the timber procured; and fifty thousand dollars for the erection of two docks, for repairing the public ships.

Under these acts, contracts have been made for eight frames for seventy-four gun ships; two of them under the appropriation of two hundred thousand dollars, and the execution of them, as far as six frames, will, it is believed, be completed this Winter. A considerable part of the other timber, necessary for six ships, has been procured. Ground has been purchased at Portsmouth, New Hampshire, Charlestown, (near Boston,) Philadelphia, the City of Washington, and Norfolk; and measures have been taken to procure ground at New York, for capacious buildings and dock-yards; and progress is making in preparing docks for receiving the timber, and wharves for building the ships. Contracts have also been made for cannon, and for the copper bolts and spikes, and for sheathing copper, for the seventy-four gun ships; but it is impossible to say how far those which respect copper will be executed, the works for manufacturing sheathing copper being very expensive, and, it is to be feared, beyond the reach of individual capital and enterprise.

The sums already advanced and expended on these different objects cannot be precisely ascertained; but they are not materially different from the following estimate:

For ground and improvements	\$186,800 00
Timber	210,070 00
Copper purchased, and advances on contracts for sheathing copper	76,913 00
Cannon	33,000 00
Purchase of Grover's Island and Black Beard	22,516 75
	<u>\$929,299 75</u>

The agents for disbursing this money are also agents for all other purposes of the Navy; and it can only be seen what has been expended, under each head of appropriation, on settlement of their accounts. To remit money to them under each head of appropriation, allowing them to expend on that particular object only the sum remitted, would be to create the necessity of keeping, in each agent's hands, four or five times as much public money as necessary; hence, the practice has arisen in the Navy Department of drawing on one appropriation, for all Navy purposes, until that appropriation is exhausted; leaving until the settlement of the agent's accounts the charges against each appropriation for which the money has been expended.

The expense of building six seventy-four gun ships, and fitting them for sea, with guns and military stores, and every other article except men

and provisions, has heretofore been estimated at two millions four hundred and three thousand eight hundred dollars and ninety-four cents; to complete the wharves and docks, for seasoning timber at the six places, where ground has been purchased, and to erect suitable houses, for the reception of public stores, will cost, including what has already been expended, six hundred thousand dollars; and to make, at two of these places, proper docks for repairing of ships, may cost one hundred thousand dollars, amounting, in the whole, to - - - - - \$3,103,800 00

From which is to be deducted the sums already expended - - - 529,299 75

Leaving a balance still to be appropriated, of - - - - - \$2,574,500 25

If this balance should be divided into four equal parts, and one part should be appropriated in the present, and one in each of the three succeeding years, the money will be furnished as fast as it will be proper to build the ships, to give them every chance of long duration.

The timber alone of a seventy-four gun ship will cost, delivered at the ship yard:
For the frame, consisting of twenty-seven thousand three hundred and eighty-seven cubic feet,
If of live oak, cut to the moulds - \$54,774 00
If partly of live oak, or other timber as valuable, and partly of white oak - 41,080 00
If of white oak alone - \$27,387 00
All the other timber - 40,000 00
67,387 00

All the timber for a frigate, to mount forty-four guns, has been estimated to cost fifty thousand dollars.

It will be impracticable to get more live oak from Georgia, after the frames already contracted for are completed, except from the islands belonging to the United States, and these are too small to furnish more than a few of the most material pieces for many ships. It will, also, soon be impracticable to obtain, in the United States, any other kind of timber superior to white oak; but there is reason to believe that, when our timber is as well seasoned, our white oak ships will last as long as those of most other countries. The experiment has never yet been fairly made.

When the United States own twelve ships of seventy-four guns, and double the number of strong frigates, and it is known that they possess the means of increasing, with facility, their naval strength, confidence may be indulged that we may then avoid those wars in which we have no interest, and without submitting to be plundered. An annual sum of one hundred and seventeen thousand three hundred and eighty-seven dollars, (over and above the appropriation for the six seventy-four gun ships already authorized,) for the purchase of timber, to be laid up in docks for seventy-four gun ships and frigates, and the adoption of efficient arrangements to secure the manufacture of copper, the culture of hemp, and the manufac-

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ture of canvass, would, in a few years, raise us to this desirable state of security.

Thus, then, it appears that, for the small sum of six hundred and fifty-one thousand nine hundred and eighty-seven dollars thirty-four cents, the United States may keep in constant service six frigates; seven others in port, but always ready for service; the corps of marines, consisting of more than eleven hundred officers and men; and may remunerate the past, and secure the future, services of a meritorious class of men, who, in general, either sacrificed more profitable and less hazardous private employment, to devote themselves to their country, in a season of peril; or who, being qualified by education for any pursuits, have entered into the Navy, as a profession, at that time of life when professions are usually chosen.

All great maritime nations retain in peace the commissioned Navy officers necessary to be employed in war, by allowing them a portion of their monthly pay, on the condition of their holding themselves in readiness, at all times, to be called into active service. The same provision is not so generally extended to the midshipmen; but the discrimination is no where just, and, in the United States, in the present instance, it would be extremely impolitic: for the midshipmen are among the most promising young men of our country, possess all the materials to make officers equal to any in the world, and well merit the fostering care of their Government. But it would be injurious to themselves and to their country to pay them for remaining in idleness at home. No midshipman ought to receive half-pay, without exhibiting satisfactory proof that at least four months of the year for which he demanded it had been employed by him in acquiring a better knowledge of his profession; if not in foreign service, at least in the merchant ships of his own country.

It also appears that, for the further sum of six hundred and forty-three thousand six hundred and twenty-five dollars and six cents, appropriated for the present, and for each of the three succeeding years, six seventy-four gun ships may be added to the Navy; two frames for two other seventy-four gun ships may be placed in dock for seasoning; six capacious building yards, with docks for receiving large quantities of timber, may be prepared; and suitable houses, which are indispensable for the security of the naval stores, may be erected at each of the building yards.

And that, for the further appropriation of one

hundred and seventeen thousand three hundred and eighty-seven dollars, for the timber of a seventy-four and a forty-four gun ship, to be repeated annually, until an adequate quantity of timber shall be obtained, the United States may acquire the means of suddenly raising their Navy to any size which the exigency of their affairs may demand.

It will require years to cut the timber from the woods and to build a ship of seventy-four guns, and, after she is built, of green timber, she will not last longer than the time consumed in building her. A ship of the same size, besides the immense advantage in point of duration, may be built and sent to sea in less than a year, if all the materials are on the spot. Timber may be preserved for ages in docks, and at little expense; and the knowledge that we possess it in that state will inspire nearly as much respect for our flag, as if the ships were built and on the ocean.

In a pecuniary point of view, there can be no comparison between the expense of creating a sufficient Navy, and the loss a commerce, so great as ours, will too certainly sustain for the want of such protection. But the loss of property is but a paltry consideration, compared with all the humiliating and destructive consequences which must flow from that debasement of mind which a system of eternal submission to injury and injustice cannot fail to produce.

Before I conclude, I will take the liberty of observing, that the business of the Navy Department embraces too many objects for the superintendence of one person, however gifted. The public interest, I am very sensible, has already suffered from this cause; and I have no doubt that the establishment of a Board, to consist of three or five experienced Navy officers, to superintend, in subordination to the Head of the Department, such parts of the duties as nautical men are best qualified to understand and to direct, would produce a saving to the public far beyond the expense of such an establishment. Their full pay as officers, indeed, and full rations, might be deemed sufficient compensation for such duty, as it would be proper that the members of the Board should retain their rank in the Navy.

I have the honor to be, with great respect, sir, your most obedient servant,

BEN. STODDERT.

HARRISON GRAY OTIS, Esq.,

Chairman of the Committee of Naval Affairs.

[The tabular statements are omitted.]

PUBLIC ACTS OF CONGRESS;

PASSED AT THE FIRST SESSION OF THE SIXTH CONGRESS, BEGUN AND HELD AT PHILADELPHIA, DECEMBER 2, 1799.

AN ACT for reviving and continuing suits and proceedings in the Circuit Court for the district of Pennsylvania.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That all suits, process, and proceedings, of what nature or kind soever, which were pending in the circuit court of the United States, for the district of Pennsylvania, at the time appointed by law for holding a session thereof, in October, one thousand seven hundred and ninety-nine, and which were discontinued by failure to hold the said court, shall be, and they are hereby, revived and continued, and the same proceedings may and shall be had in the same court, in all suits and process aforesaid, and in all things relating to the same, as by law might have been had in the same court, had it been regularly holden, at the time aforesaid.

SEC. 2. *And be it further enacted,* That all writs, and other process, which may have been, and which shall be issued, by the clerk of the said court, bearing teste of April session or October session, one thousand seven hundred and ninety-nine, shall be held and deemed of the same validity and effect, as if the same court had been regularly held on the eleventh day of October, one thousand seven hundred and ninety-nine.

SEC. 3. *And be it further enacted,* That it shall be lawful for the judge of the district court of the district of Pennsylvania, to direct the clerk of the said circuit court to issue such process, for the purpose of causing jurors to be summoned to attend at the session of the said circuit court, on the eleventh day of April next, as hath heretofore been issued for the like purposes, returnable to any preceding session thereof; and the persons so summoned shall, in case of non-attendance, be liable to the same penalties as if such process had been issued in the ordinary course of proceeding.

THEODORE SEDGWICK,

Speaker of the House of Representatives.

SAMUEL LIVERMORE,

President of the Senate, pro tempore.

Approved, December 24, 1799.

JOHN ADAMS,

President of the United States.

An Act extending the privilege of franking to William Henry Harrison, the delegate from the Territory of the United States Northwest of the Ohio; and making provision for his compensation.

Be it enacted, &c., That William Henry Harrison, the delegate to Congress from the Territory of the United States Northwest of the river Ohio,

be entitled to the privilege of sending and receiving letters free of postage, on the same terms, and under the same restrictions, as are provided for the members of the Senate and of the House of Representatives of the United States, by the act, entitled "An act to establish the post office and post roads within the United States."

SEC. 2. *And be it further enacted,* That the said William Henry Harrison shall receive for his travelling expenses, and attendance in Congress, the same compensation as is or may be allowed by law, to the members of the House of Representatives of the United States, to be certified and paid in like manner.

Approved, January 2, 1800.

An Act supplementary to the act, entitled "An Act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States."

Be it enacted, &c., That the commissioners appointed under the act to which this is a supplement, shall have power, on consideration and examination of the lists, returns, valuation, and abstracts, rendered by the assessors, to revise, adjust and vary the valuations of lands and dwelling houses in each and every sub-division of the several assessment districts, by adding thereto, or deducting therefrom, such a rate per centum as shall appear to be just and reasonable; *Provided,* That the relative valuations of the different lots or tracts of land, or dwelling houses in the same sub-division, shall not be changed or affected.

SEC. 2. *And be it further enacted,* That the said commissioners may direct the additions or deductions, as aforesaid, to be made out and completed by the several principal assessors, or, if they shall deem it more advisable, by their clerk, and such assistants as they shall find necessary and appoint for that purpose; *Provided,* That the compensation to be made to the said assistants shall not exceed the pay allowed to the assistant assessors, by the act to which this is a supplement.

Approved, January 2, 1800.

An Act for the relief of persons imprisoned for debt.

Be it enacted, &c., That persons imprisoned on process issuing from any court of the United States, as well at the suit of the United States, as at the suit of any person or persons in civil actions, shall be entitled to like privileges of the yards or limits of the respective jails, as persons confined in like cases on process from the courts of the respective States, are entitled to, and under the like regulations and restrictions.

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SEC. 2. *And be it further enacted,* That any person imprisoned on process of execution issuing from any court of the United States in civil actions, except at the suit of the United States, may have the oath or affirmation, hereinafter expressed, administered to him by the judge of the district court of the United States, within whose jurisdiction the debtor may be confined; and in case there shall be no district judge residing within twenty miles of the jail wherein such debtor may be confined, such oath or affirmation may be administered by any two persons who may be commissioned for that purpose by the district judge: The creditor, his agent or attorney, if either live within one hundred miles of the place of imprisonment, or within the district in which the judgment was rendered, having had at least thirty days previous notice by a citation served on him, issued by the district judge, to appear at the time and place therein mentioned, if he see fit, to show cause why the said oath or affirmation should not be so administered: At which time and place, if no sufficient cause, in the opinion of the judge (or the commissioners appointed as aforesaid) be shown, or doth from examination appear to the contrary, he or they may, at the request of the debtor, proceed to administer to him the following oath or affirmation, as the case may be, viz. "You ——— solemnly swear (or affirm) that you have no estate, real or personal, in possession, reversion, or remainder, to the amount or value of thirty dollars, other than necessary wearing apparel; and that you have not directly or indirectly, given, sold, leased, or otherwise conveyed to, or intrusted any person or persons with all or any part of the estate, real or personal, whereof you have been the lawful owner or possessor, with any intent to secure the same, or to receive or expect any profit or advantage therefrom, or to defraud your creditors, or have caused or suffered to be done anything else whatsoever, whereby any of your creditors may be defrauded." Which oath or affirmation being administered, the judge or commissioners shall certify the same under his or their hands to the prison-keeper, and the debtor shall be discharged from his imprisonment on such judgment, and shall not be liable to be imprisoned again for the said debt, but the judgment shall remain good and sufficient in law, and may be satisfied out of any estate which may then, or at any time afterwards, belong to the debtor. And the judge or commissioners, in addition to the certificate by them made and delivered to the prison-keeper, shall make return of their doings to the district court, with the commission, in cases where a commission has been issued, to be kept upon the files and record of the same court. And the said judge, or commissioners, may send for books and papers, and have the same authority as a court of record, to compel the appearance of witnesses, and administer to them, as well as to the debtor, the oaths or affirmations necessary for the inquiry into, and discovery of the true state of the debtor's property, transactions and affairs.

SEC. 3. *And be it further enacted,* That when the examination and proceedings aforesaid, in the

opinion of the said judge or commissioners, cannot be had with safety or convenience in the prison wherein the debtor is confined, it shall be lawful for him or them, by warrant under his or their hand and seals, to order the marshal or prison-keeper, to remove the debtor to such other place, convenient and near to the prison, as he or they may see fit; and to remand the debtor to the same prison, if, upon examination or cause shown by the creditor, it shall appear that the debtor ought not to be admitted to take the above recited oath or affirmation, or that he is holden for any other cause.

SEC. 4. *And be it further enacted,* That if any person shall falsely take any oath or affirmation, authorized by this act, such person shall be deemed guilty of perjury, and, upon conviction thereof, shall suffer the pains and penalties in that case provided: and, in case any false oath or affirmation be so taken by the debtor, the court, upon the motion of the creditor, shall recommit the debtor to the prison from whence he was liberated, there to be detained for the said debt, in the same manner as if such oath or affirmation had not been taken.

SEC. 5. *And be it further enacted,* That any person imprisoned upon process issuing from any court of the United States, except at the suit of the United States, in any civil action, against whom judgment has been or shall be recovered, shall be entitled to the privileges and relief provided by this act, after the expiration of thirty days from the time such judgment has been or shall be recovered, though the creditor should not, within that time, sue out his execution, and charge the debtor therewith.

Approved, January 6, 1800.

An Act for the preservation of peace with the Indian tribes.

Be it enacted, &c., That if any citizen or other person residing within the United States, or the territory thereof, shall send any talk, speech, message, or letter, to any Indian nation, tribe, or chief, with an intent to produce a contravention or infraction of any treaty or other law of the United States, or to disturb the peace and tranquillity of the United States, he shall forfeit a sum not exceeding two thousand dollars, and be imprisoned not exceeding two years.

SEC. 2. *And be it further enacted,* That if any citizen or other person shall carry or deliver any such talk, speech, message, or letter, to or from any Indian nation, tribe, or chief, from or to any person or persons whatsoever, residing within the United States, or from or to any subject, citizen, or agent of any foreign Power or State, knowing the contents thereof, he shall forfeit a sum not exceeding one thousand dollars, and be imprisoned not exceeding twelve months.

SEC. 3. *And be it further enacted,* That if any citizen or other person, residing or being among the Indians, or elsewhere within the territory of the United States, shall carry on a correspondence, by letter or otherwise, with any foreign nation or power, with an intent to induce such foreign nation or power, to excite any Indian nation, tribe,

Acts of Congress.

or chief, to war against the United States, or to the violation of any existing treaty; or in case any citizen or other person shall alienate, or attempt to alienate, the confidence of the Indians from the Government of the United States, or from any such person or persons as are or may be employed and intrusted by the President of the United States as a commissioner or commissioners, agent or agents, or in any capacity whatever, for facilitating or preserving a friendly intercourse with the Indians, or for managing the concerns of the United States with them, he shall forfeit a sum not exceeding one thousand dollars, and be imprisoned not exceeding twelve months.

SEC. 4. *And be it further enacted*, That the provisions of the act, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," passed the third day of March, one thousand seven hundred and ninety-nine, be, and the same are hereby extended to carry into effect this act, and for the trial and punishment of offences against it, in the same manner as if they were herein specially recited.

SEC. 5. *And be it further enacted*, That this act shall continue and be in force until the third day of March, in the year one thousand eight hundred and two, and no longer.

Approved, January 17, 1800.

An Act to repeal part of an act, entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned, and to continue in force the residue of the same."

Be it enacted, &c., That the fourth section of an act, entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned," passed on the third day of March, one thousand seven hundred and ninety-seven, shall be, and the same is hereby repealed, and the residue of the said act shall be, and the same is hereby, continued in full force without limitation of time.

Approved, February 11, 1800.

An Act giving further time to the holders of military warrants, to register and locate the same.

Be it enacted, &c., That the Secretary of the Treasury shall, for the space of fourteen days after the expiration of the nine months heretofore allowed for that purpose, by the act, entitled "An act regulating the grants of land, appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen," register warrants for military services in the form and manner as is prescribed by the said recited act; and the priority of location of said warrants, and the warrants registered under the said recited act, shall be determined by lot, immediately after the expiration of the said fourteen days, and a day for the location shall be fixed by the Secretary of the Treasury, in a public notice given in one of the gazettes of the city of Philadelphia.

Approved, February 11, 1800.

An Act to suspend in part, an act, entitled "An act to augment the army of the United States; and for other purposes."

Be it enacted, &c., That all further enlistments under the second section of an act, entitled "An act to augment the army of the United States, and for other purposes," shall be suspended until the further order of Congress, unless in the recess of Congress, and during the continuance of the existing differences between the United States and the French Republic, war shall break out between the United States and the French Republic, or imminent danger of invasion of their territory by the said Republic, shall, in the opinion of the President of the United States, be discovered to exist.

Approved, February 20, 1800.

An Act further to suspend the commercial intercourse between the United States and France, and the dependencies thereof.

Be it enacted, &c., That all commercial intercourse between any persons resident within the United States or under their protection, and any person or persons resident within the territories of the French Republic, or any of the dependencies thereof, shall be, and, from and after the second day of March next, is hereby prohibited and farther suspended, excepting only in the cases hereinafter provided. And any ship or vessel, owned, hired, or employed, wholly or in part, by any person or persons resident within the United States, or any citizen or citizens thereof resident elsewhere, and sailing therefrom after that day, which, contrary to the intent hereof, shall be voluntarily carried, or shall be destined or permitted to proceed, or shall be sold, bartered, intrusted, or transferred, for the purpose that she may proceed, whether directly or from any intermediate port or place within the territories of that Republic, or any of the dependencies thereof; or shall be engaged in any traffic or commerce, by or for any person resident within the territories of that Republic, or within any of the dependencies thereof; and also any cargo which shall be found on board such ship or vessel, when detected and interrupted in such unlawful purpose, or at her return from such voyage to the United States, shall be wholly forfeited, and may be seized and condemned in any court of the United States having competent jurisdiction.

SEC. 2. *And be it further enacted*, That excepting for foreign ships or vessels owned, hired, and employed by persons permanently residing in Europe, and commanded and wholly navigated by foreigners, no clearance for a foreign voyage shall be granted to any ship or vessel whatever, until the owner or employer for the voyage, or if not resident within the district where the clearance shall be required, his factor or agent, with the master and one or more sufficient surety or sureties to the satisfaction of the collector of the district, shall give bond to the United States, such owner, employer, or factor, with the master, in a sum equal to the value of the vessel, and of one-third of her cargo; and such surety or sureties in a like

sum, when it shall not exceed ten thousand dollars; and if it shall exceed, then in that sum, with condition that the ship or vessel for which a clearance shall be required, is actually destined, and shall proceed to some port or place without the limits or jurisdiction of the French Republic, or any of the dependencies thereof, and during the intended voyage shall not be voluntarily carried, or permitted to proceed or sold, intrusted or transferred, with the purpose that she may proceed, whether directly or from any intermediate port or place, to any port or place within the territories of that Republic, or any of the dependencies thereof; and shall not, at any such port or place, voluntarily deliver or unlade any part of such cargo; and, if compelled by distress of weather, or taken by force into any such port or place, will not there receive on board of such ship or vessel, any goods, produce, or merchandise, other than necessary sea-stores; and generally, that such ship or vessel shall not be employed in any traffic or commerce, with or for any person resident within the territory of the French Republic, or any of the dependencies thereof.

SEC. 3. *Provided, and be it further enacted,* That when any ship or vessel which shall obtain a clearance for a foreign voyage, after a bond shall be given as aforesaid, shall be compelled by distress of weather, or other casualty endangering the safety of such ship or vessel, or of the mariners on board the same, or shall be taken by any armed vessel, or other superior force, into any port or place within the territories of the French Republic, or any of the dependencies thereof, and shall there necessarily unlade and deliver, or shall be deprived of any cargo then on board, then, and in such case, the master or other person having charge of such ship or vessel, may receive compensation or payment in bills of exchange, or in money or bullion, for such cargo, but not otherwise, and shall not be understood thereby to contravene this law, or to incur a forfeiture of the said bond.

SEC. 4. *And be it further enacted,* That no ship or vessel coming from any port or place within the territories of the French Republic, or any of the dependencies thereof, whether with or without a cargo, or from any other port or place, with a cargo on board obtained for, or laden on board of such vessel at any port or place within the said territories or dependencies, which shall arrive within the limits of the United States, after the second day of March next, shall be admitted to entry with the collector of any district; and each and every such ship or vessel which shall arrive as aforesaid, having on board any goods, wares, or merchandise, destined to be delivered within the United States, contrary to the intent of this act, or which shall have otherwise contravened the same, together with the cargo which shall be found on board, shall be forfeited, and may be seized and condemned in any court of the United States having competent jurisdiction: *Provided,* That nothing herein contained shall be construed to prohibit the entry of any vessel having a passport granted under the authority of the French Republic, and solely employed for purposes of politi-

cal or national intercourse with the Government of the United States, and not in any commercial intercourse, and which shall be received, and permitted by the President of the United States to remain within the same: *And provided, also,* that until the first day of August next, and no longer, any ship or vessel, wholly owned or employed by a foreigner, other than any person resident in France, or in any of the dependencies of the French Republic, and which coming therefrom shall be destined to the United States, and shall arrive within the same, not having otherwise contravened this act, shall be required and permitted to depart therefrom; and in case she shall accordingly depart without any unreasonable delay, and without delivery, or attempting to deliver, any cargo or lading within the United States, such ship or vessel, or any cargo which may be on board the same, shall not be liable to the forfeiture aforesaid.

SEC. 5. *And be it further enacted,* That if any ship or vessel, coming from any port or place within the territories of the French Republic, or any of the dependencies thereof, or with any cargo there obtained on board, but not destined to any port or place within the United States, shall be compelled by distress of weather, or other necessity, to put into any port or place within the limits of the United States, such ship or vessel shall be there hospitably received in the manner prescribed by the act, entitled, "An act to regulate the collection of duties on imports and tonnage;" and shall be permitted to make such repairs, and to obtain such supplies, as shall be necessary to enable her to proceed according to her destination; and such repairs and supplies being obtained, shall be thereafter required and permitted to depart. But if such ship or vessel shall not conform to the regulations prescribed by the act last mentioned, or shall unlade any part of her cargo, or shall take on board any cargo or supplies whatever, without the permit of the collector of the district previously obtained therefor, or shall refuse, or unreasonably delay to depart from and out of the United States, after having received a written notice to depart, which such collector may, and shall give as soon as such ship or vessel shall be fit for sea; or having departed shall return to the United States, not being compelled thereto by further distress or necessity, in each and every such case, such ship or vessel and her cargo shall be forfeited, and may be seized and condemned in any court of the United States having competent jurisdiction.

SEC. 6. *And be it further enacted,* That at any time after the passing of this act, it shall be lawful for the President of the United States, by his order, to remit and discontinue for the time being, whenever he shall deem it expedient, and for the interest of the United States, all, or any of the restraints and prohibitions imposed by this act, in respect to the territories of the French Republic, or to any island, port or place belonging to the said republic, with which in his opinion a commercial intercourse may be safely renewed; and also it shall be lawful for the President of the United States, whenever he shall afterwards deem

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it expedient, to revoke such order, and hereby to re-establish such restraints and prohibitions: And the President of the United States shall be, and he is hereby, authorized to make proclamation thereof accordingly.

SEC. 7. *And be it further enacted*, That the whole of the island of Hispaniola shall, for the purposes of this act, be considered as a dependency of the French Republic: *Provided*, That nothing herein contained shall be deemed to repeal or annul, in any part, the order or proclamation of the President of the United States, heretofore issued for permitting commercial, intercourse with certain ports of that island.

SEC. 8. *And be it further enacted*, That it shall be lawful for the President of the United States, to give instructions to the public armed vessels of the United States, to stop and examine any ship or vessel of the United States on the high sea, which there may be reason to suspect to be engaged in any traffic or commerce contrary to this act, and if, upon examination, it shall appear that such ship or vessel is bound or sailing to or from any port or place, contrary to the true intent and meaning of this act, it shall be the duty of the commander of such public armed vessel, to seize every ship or vessel engaged in such illicit commerce, and send the same to the nearest convenient port of the United States, to be there prosecuted in due course of law, and held liable to the penalties and forfeitures provided by this act.

SEC. 9. *And be it further enacted*, That all penalties and forfeitures incurred by force of this act, shall and may be examined, mitigated, and remitted, in like manner, and under the like conditions, regulations, and restrictions, as are prescribed, authorized, and directed by the act, entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities accruing in certain cases therein mentioned;" and all penalties and forfeitures, which may be recovered, in pursuance of this act, in consequence of any seizure made by the commander of any public armed vessel of the United States, shall be distributed according to the rules prescribed by the act, entitled "An act for the government of the navy of the United States;" and all other penalties arising under this act, and which may be recovered, shall be distributed and accounted for in the manner prescribed by the act, entitled "An act to regulate the collection of duties on imports and tonnage."

SEC. 10. *And be it further enacted*, That nothing contained in this act shall extend to any ship or vessel to which the President of the United States shall grant a permission to enter and clear; provided such ship or vessel shall be solely employed, pursuant to such permission, for purposes of national intercourse; and shall not be permitted to proceed with, or to bring to the United States, any cargo or lading whatever, other than necessary sea-stores.

SEC. 11. *And be it further enacted*, That the act entitled "An act further to suspend the commercial intercourse between the United States and France, and the dependencies thereof," shall

be, and is hereby continued, and shall be taken to be in force in respect to all offences, which shall have been committed against the same, before the expiration thereof; and to the intent that all seizures, forfeitures, and penalties, arising upon such offences, may be had, sued for, prosecuted, and recovered, any limitation of the said act to the contrary hereof notwithstanding.

SEC. 12. *And be it further enacted*, That this act shall be and remain in force until the third day of March, one thousand eight hundred and one: *Provided, however*, the expiration thereof shall not prevent or defeat any seizure, or prosecution for a forfeiture, incurred under this act, and during the continuance thereof.

Approved, February 27, 1800.

An Act providing for the second Census or enumeration of the inhabitants of the United States.

Be it enacted, &c., That the marshals of the several districts of the United States and the secretaries of the Territory of the United States Northwest of the river Ohio, and of the Mississippi Territory, respectively, shall be, and they are hereby authorized and required, under the direction of the Secretary of State, and according to such instructions as he shall give pursuant to this act, to cause the number of the inhabitants within their respective districts and territories to be taken; omitting in such enumeration Indians not taxed, and distinguishing free persons, including those bound to service for a term of years from all others; distinguishing also the sexes, and colors of free persons, and the free males under ten years of age; those of ten years and under sixteen, those of sixteen and under twenty-six, those of twenty-six and under forty-five, those of forty-five and upwards. And distinguishing free females under ten years of age, those of ten years and under sixteen, those of sixteen and under twenty-six, those of twenty-six and under forty-five, those of forty-five and upwards; for effecting which purpose, the marshals and secretaries aforesaid shall have power to appoint as many assistants within their respective districts and territories, as aforesaid, as to them shall appear necessary; assigning to each assistant a certain division of his district or territory, which division shall consist of one or more counties, cities, towns, townships, hundreds, or parishes, or of a territory plainly and distinctly bounded by water courses, mountains, or public roads: The marshals or secretaries, as the case may be, and their assistants, shall, respectively, take an oath or affirmation, before some judge or justice of the peace, resident within their respective districts or territories, previous to their entering on the discharge of the duties by this act required. The oath or affirmation of the marshal or secretary shall be: "I, A. B. marshal of the district of —, (or secretary of the territory of —, as the case may be,) do solemnly swear or affirm, that I will well and truly cause to be made a just and perfect enumeration and description of all persons resident within my district or territory, and return the same to the Sec-

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retary of State, agreeably to the directions of an act of Congress, entitled 'An act providing for the enumeration of the inhabitants of the United States,' according to the best of my ability." The oath or affirmation of an assistant shall be: "I, A. B., do solemnly swear (or affirm) that I will make a just and perfect enumeration and description of all persons resident within the division assigned to me by the marshal of the district of —, (or the secretary of the territory of —, as the case may be,) and make due return thereof to the said marshal, or secretary, agreeably to the directions of an act of Congress, entitled 'An act providing for the enumeration of the inhabitants of the United States,' according to the best of my abilities." The enumeration shall commence on the first Monday of August next, and shall close within nine calendar months thereafter. The several assistants shall, within the said nine months, transmit to the marshal or secretaries, by whom they shall be respectively appointed, accurate returns of all persons, except Indians, not taxed, within their respective divisions; which returns shall be made in a schedule, distinguishing in each county, parish, township, town or city, the several families, by the names of their master, mistress, steward, overseer, or other principal person therein, in the manner following, that is to say: The number of persons within my division, consisting of —, appears in a schedule hereto annexed, subscribed by me this — day of —, A. B. assistant to the marshal of — or to the secretary of —.

	Name of county, parish, township, town, or city, where the family resides.
	Name of head of family.
	Free white males under ten years of age.
	Free white males of ten and under sixteen.
	Free white males of sixteen and under twenty-six, including heads of families.
	Free white males of twenty-six and under forty-five including heads of families.
	Free white males of forty-five and upwards, including heads of families.
	Free white females under ten years of age.
	Free white females of ten years and under sixteen.
	Free white females of sixteen and under twenty-six, including heads of families.
	Free white females of twenty-six, and under forty-five, including heads of families.
	Free white females of forty-five and upwards, including heads of families.
	All other free persons, except Indians not taxed.
	Slaves.

Schedule of the whole number of persons in the division allotted to A. B.

king a false return of the enumeration to the marshal or secretary (as the case may be) within the time by this act limited, shall forfeit the sum of two hundred dollars.

SEC. 3. *And be it further enacted*, That the marshal and secretaries shall file the several returns aforesaid, with the clerks of their respective districts or superior courts, (as the case may be,) who are hereby directed to receive and carefully preserve the same. And the marshals or secretaries, respectively, shall, on or before the first day of September, one thousand eight hundred and one, transmit to the Secretary of State the aggregate amount of each description of persons within their respective districts or territories. And every marshal or secretary failing to file the returns of his assistants, or any of them, with the clerks of their respective courts as aforesaid, or failing to return the aggregate amount of each description of persons in their respective districts or territories, as the same shall appear, from said returns, to the Secretary of State, within the time limited by this act, shall, for every such offence, forfeit the sum of eight hundred dollars; all which forfeitures shall be recoverable in the courts of the districts or territories where the offences shall be committed, or in the circuit courts to be held within the same, by action of debt, information, or indictment; the one half thereof to the use of the United States, and the other half to the informer; but where the prosecution shall be first instituted on behalf of the United States, the whole shall accrue to their use. And for the more effectual discovery of offences, the judges of the several districts, and of the supreme courts, in the territories of the United States, as aforesaid, at their next sessions, to be held after the expiration of the time allowed for making the returns of the enumeration hereby directed, to the Secretary of State, shall give this act in charge to the grand juries, in their respective courts, and shall cause the returns of the several assistants to be laid before them for their inspection.

SEC. 4. *And be it further enacted*, That every assistant shall receive at the rate of one dollar for every hundred persons by him returned, where such persons reside in the country, and where such persons reside in a city or town containing more than three thousand persons, such assistant shall receive at the rate of one dollar for every three hundred persons, but where, from the dispersed situation of the inhabitants in some divisions, one dollar for every one hundred persons shall be insufficient, the marshal or secretaries, with the approbation of the judges of their respective districts or territories, may make such further allowance to the assistants in such divisions, as shall be deemed an adequate compensation: *Provided*, The same does not exceed one dollar for every fifty persons by them returned. The several marshals and secretaries shall receive as follows: The marshal of the district of Maine, two hundred dollars; the marshal of the district of New Hampshire, two hundred dollars; the marshal of the district of Massachusetts, three hundred dollars; the marshal of the district of

SEC. 2. *And be it further enacted*, That every assistant, failing to make a proper return, or, ma-

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Rhode Island, one hundred and fifty dollars; the marshal of the district of Connecticut, two hundred dollars; the marshal of the district of Vermont, two hundred dollars; the marshal of the district of New York, three hundred dollars; the marshal of the district of New Jersey, two hundred dollars; the marshal of the district of Pennsylvania, three hundred dollars; the marshal of the district of Delaware, one hundred dollars; the marshal of the district of Maryland, three hundred dollars; the marshal of the district of Virginia, five hundred dollars; the marshal of the district of Kentucky, two hundred and fifty dollars; the marshal of the district of North Carolina, three hundred and fifty dollars; the marshal of the district of South Carolina, three hundred dollars; the marshal of the district of Georgia, two hundred and fifty dollars; the marshal of the district of Tennessee, two hundred dollars; the secretary of the Territory of the United States Northwest of the Ohio, two hundred dollars; the secretary of the Mississippi Territory, one hundred dollars.

SEC. 5. *And be it further enacted*, That every person whose usual place of abode shall be in any family on the aforesaid first Monday in August next, shall be returned as of such family, and the name of every person who shall be an inhabitant of any district or territory, but without a settled place of residence, shall be inserted in the column of the aforesaid schedule, which is allotted for the heads of families in that division where he or she shall be, on the said first Monday in August next, and every person occasionally absent at the time of the enumeration, as belonging to that place in which he or she usually resides in the United States.

SEC. 6. *And be it further enacted*, That each and every free person, more than sixteen years of age, whether heads of families or not, belonging to any family, within any division, district, or territory made or established within the United States, shall be, and hereby is, obliged to render to such assistant of the division, a true account, if required, to the best of his or her knowledge, of all and every person belonging to such family, respectively, according to the several descriptions aforesaid, on pain of forfeiting twenty dollars, to be sued for and recovered by such assistant, the one half for his own use, and the other half to the use of the United States.

SEC. 7. *And be it further enacted*, That each assistant shall, previous to making his returns to the marshal or secretary, (as the case may be,) cause a correct copy, signed by himself, of the schedule containing the number of inhabitants within his division, to be set up at two of the most public places within the same, there to remain for the inspection of all concerned, for each of which copies the said assistant shall be entitled to receive two dollars; provided, proof of the schedule having been so set up and suffered to remain, shall be transmitted to the marshal or secretary, (as the case may be,) with the return of the number of the persons; and in case any assistant shall fail to make such proof to the mar-

shal or secretary, as aforesaid, he shall forfeit the compensation by this act allowed him.

SEC. 8. *And be it further enacted*, That the Secretary of State shall be, and hereby is, authorized and required to transmit to the marshals of the several States, and to the secretaries aforesaid, regulations and instructions pursuant to this act, for carrying the same into effect; and, also, the forms contained therein of schedule to be returned, and proper interrogatories to be administered by the several persons who shall be employed therein.

Approved, February 28, 1800.

An Act in addition to an act, entitled "An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen."

Be it enacted, &c., That the respective points of intersection of the lines actually run, as the boundaries of the several townships surveyed by virtue of the act entitled "An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen," accordingly as the said lines have been marked and ascertained at the time when the same were run, notwithstanding the same are not in conformity to the act aforesaid, or shall not appear to correspond with the plat of the survey which has been returned by the surveyor general, shall be considered, and they are hereby declared, to be the corners of the said townships; that, in regard to every such township as by the plat and survey returned by the surveyor general is stated to contain four thousand acres in each quarter thereof, the points on each of the boundary lines of such township, which are at equal distance from those two corners of the same township, which stand on the same boundary line, shall be considered, and they are hereby declared, to be corners of the respective quarters of such township; that the other boundary lines of the said quarter townships shall be straight lines, run from each of the last-mentioned corners of quarter townships to the corner of quarter townships on the opposite boundary line of the same township; and that in regard to every such township as by the said return is stated to contain, in any of the quarters thereof, more or less than the quantity of four thousand acres, the corners marked in the boundary lines of such township to designate the quarters thereof, shall be considered, and they are hereby declared, to be the corners of the quarter townships thereof, although the same may be found at unequal distances from the respective corners of such townships. And such townships shall be divided by running lines through the same from the corners of the quarter townships actually marked, whether the interior lines thus extended shall be parallel to the exterior lines of the said township or not; and that each of the said quarter townships thus bounded, shall, in every proceeding to be had under the above-mentioned or this act, be considered as containing the exact quantity expressed in the

plat and survey thereof returned by the surveyor general.

SEC. 2. *And be it further enacted*, That it shall be lawful for the proprietors or holders of warrants for military services, which have been, or shall be, registered at the Treasury, in pursuance of the act entitled "An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen," during the time, in the manner, and according to the rights of priority, which may be acquired in pursuance of said act, to locate the quantities of land mentioned in the warrants by them, respectively, registered, as aforesaid, on any quarter township or fractional part of a quarter township, in the general tract mentioned and described in said act: *Provided, always*, That the fractional quarter townships upon the river Sciota and those upon the river Muskingum, adjoining the grant made to Ebenezer Zane, or the towns Salem, Gnadenhutten, or Shoenbrun, or the Indian boundary line, shall in every case be accepted and taken in full satisfaction for four thousand acres.

SEC. 3. *And be it further enacted*, That whenever locations shall be made on any quarter township, which, according to the actual survey and plat thereof, returned by the surveyor general, is stated to contain less than the quantity of four thousand acres, except in the case of fractions provided for in the preceding section, it shall be lawful for the Secretary of the Treasury to issue, or cause to be issued, certificates expressing the number of acres remaining unsatisfied of any registry of warrants for the quantity of four thousand acres, made in pursuance of the act before recited, which certificates shall have the same validity and effect, and be liable to be barred in like manner as warrants granted for military services, but no certificate shall be granted, nor any claim allowed for less than fifty acres, nor for the navigable water contained within the limits of any quarter township or fractional quarter township.

SEC. 4. *And be it further enacted*, That whenever a location shall be made on any quarter township, which, according to the actual survey and plat thereof, returned by the surveyor general, is stated to exceed the quantity of four thousand acres, no patent shall be issued in pursuance thereof, until the person making such location shall deposit at the Treasury warrants for military services, or certificates issued by virtue of the preceding section, equal to the excess above four thousand acres, contained in such quarter township, or shall pay into the Treasury of the United States two dollars per acre, in the certificates of the six per cent. funded debt of the United States, or money, for each acre of the excess above four thousand acres as aforesaid.

SEC. 5. *And be it further enacted*, That after the priority of location shall have been determined, and after the proprietors or holders of warrants for military services shall have designated the tracts by them respectively elected, it shall be the duty of the Secretary of the Treasury to designate by lot, in the presence of the Secretary of

War, fifty quarter townships, of the lands remaining unlocated, which quarter townships, together with the fractional parts of townships remaining unlocated, shall be reserved for satisfying warrants granted to individuals for their military services, in the manner hereafter provided.

SEC. 6. *And be it further enacted*, That the land in each of the quarter townships designated as aforesaid, and in such of the fractional parts of quarter townships, as may then remain unlocated, shall be divided by the Secretary of the Treasury, upon the respective plats thereof, as returned by the surveyor general, into as many lots, of one hundred acres each, as shall be equal, as nearly as may be, to the quantity such quarter township or fraction is stated to contain; each of which lots shall be included, where practicable, between parallel lines, one hundred and sixty perches in length, and one hundred perches in width, and shall be designated, by progressive numbers, upon the plat or survey of every such quarter township and fraction respectively.

SEC. 7. *And be it further enacted*, That, from and after the sixteenth day of March, it shall be lawful for the holder of any warrant granted for military services, to locate at any time before the first day of January, one thousand eight hundred and two, the number of hundred acres expressed in such warrant, on any lot or lots, from time to time, remaining unlocated within the tracts reserved as aforesaid, and upon surrendering such warrant to the Treasury, the holder thereof shall be entitled to receive a patent, in the manner and upon the conditions heretofore prescribed by law; which patent shall, in every case, express the range, township, quarter township, or fraction, and number of the lot located as aforesaid; but no location shall be allowed, nor shall any patent be issued for any lot or lots of one hundred acres, except in the name of the person originally entitled to such warrant, or the heir or heirs of the person so entitled; nor shall any land so located and patented to a person originally entitled to such warrant, be considered as in trust for any purchaser, or be subject to any contract made before the date of such patent, and the title to lands acquired, in consequence of patents issued as aforesaid, shall and may be alienated in pursuance of the laws, which have been, or shall be, passed in the Territory of the United States Northwest of the river Ohio, for regulating the transfer of real property, and not otherwise.

SEC. 8. *And be it further enacted*, That in all cases, after the sixteenth of March next, where more than one application is made for the same tract, at the same time, under this act, or under the act to which this is in addition, the Secretary of the Treasury shall determine the priority of location by lot.

SEC. 9. *And be it further enacted*, That it shall be the duty of the Secretary of the Treasury to advertise the tracts which may be reserved for location, in lots of one hundred acres, in one newspaper in each of the States, and in the territory aforesaid, for and during the term of three months.

SEC. 10. *And be it further enacted*, That the

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actual plat and survey, returned by the surveyor general, of quarter townships, and fractional parts of quarter townships, contained in the tract mentioned and described in the act to which this is a supplement, shall be considered as final and conclusive, so far as relates to the quantity of land supposed to be contained in the quarter townships and fractions, so that no claim shall hereafter be set up against the United States by any proprietor or holder of warrants for military services, on account of any deficiency in the quantity of land contained in the quarter township, or fractional part of a quarter township, which shall have been located by such proprietor or holder, nor shall any claim be hereafter set up by the United States against such proprietor or holder on account of any excess in the quantity of land contained therein.

Approved, March 1, 1800.

An Act providing for salvage in cases of recapture.

Be it enacted, &c., That when any vessel other than a vessel of war or privateer, or when any goods which shall hereafter be taken as prize by any vessel, acting under authority from the Government of the United States, shall appear to have before belonged to any person or persons, resident within or under the protection of the United States, and to have been taken by an enemy of the United States, or under authority, or pretence of authority, from any Prince, Government, or State, against which the United States have authorized, or shall authorize defence or reprisals, such vessel or goods not having been condemned as prize by competent authority before the recapture thereof, the same shall be restored to the former owner or owners thereof, he or they paying for and in lieu of salvage, if retaken by a public vessel of the United States, one-eighth part, and if retaken by a private vessel of the United States, one-sixth part of the true value of the vessel or goods so to be restored, allowing and excepting all imposts and public duties to which the same may be liable. And if the vessel so retaken shall appear to have been set forth and armed as a vessel of war, before such capture or afterwards, and before the retaking thereof as aforesaid, the former owner or owners, on the restoration thereof, shall be adjudged to pay, for and in lieu of salvage, one moiety of the true value of such vessel of war or privateer.

SEC. 2. *And be it further enacted,* That when any vessel or goods, which shall hereafter be taken as prize, by any vessel acting under authority from the Government of the United States, shall appear to have before belonged to the United States, and to have been taken by an enemy of the United States, or under authority, or pretence of authority, from any Prince, Government, or State, against which the United States have authorized, or shall authorize defence or reprisals, such public vessel not having been condemned as prize by competent authority before the recapture thereof, the same shall be restored to the United States. And for and in lieu of salvage, there shall be paid

from the Treasury of the United States, pursuant to the final decree which shall be made in such case by any court of the United States, having competent jurisdiction thereof, to the parties who shall be thereby entitled to receive the same, for the recapture as aforesaid, of an unarmed vessel, or any goods therein, one-sixth part of the true value thereof, when made by a private vessel of the United States, and one-twelfth part of such value when the recapture shall be made by a public armed vessel of the United States; and for the recapture as aforesaid of a public armed vessel, or any goods therein, one moiety of the true value thereof, when made by a private vessel of the United States, and one-fourth part of such value, when such recapture shall be made by a public armed vessel of the United States.

SEC. 3. *And be it further enacted,* That when any vessel or goods which shall be taken as prize as aforesaid, shall appear to have belonged to any person or persons permanently resident within the territory, and under the protection of any foreign Prince, Government, or State, in amity with the United States, and to have been taken by an enemy of the United States, or by authority or pretence of authority from any Prince, Government, or State, against which the United States have authorized, or shall authorize, defence or reprisals, then such vessel or goods shall be adjudged to be restored to the former owner or owners thereof, he or they paying, for and in lieu of salvage, such proportion of the true value of the vessel or goods so to be restored, as by the law or usage of such Prince, Government, or State, within whose territory such former owner or owners shall be so resident, shall be required on the restoration of any vessel or goods of a citizen of the United States, under like circumstances of recapture, made by the authority of such foreign Prince, Government, or State; and where no such law or usage shall be known, the same salvage shall be allowed as is provided by the first section of this act: *Provided,* That no such vessel or goods shall be adjudged to be restored to such former owner or owners, in any case where the same shall have been, before the recapture thereof, condemned as prize by competent authority, nor in any case whereby the law or usage of the Prince, Government, or State, within whose territory such former owner or owners shall be resident as aforesaid, the vessel or goods of a citizen of the United States, under like circumstances of recapture, would not be restored to such citizen of the United States: *Provided, also,* That nothing herein shall be construed to contravene or alter the terms of restoration in cases of recapture, which are or shall be agreed on in any treaty between the United States and any foreign Prince, Government, or State.

SEC. 4. *And be it further enacted,* That all sums of money which may be paid for salvage, as aforesaid, when accruing to any public armed vessel, shall be divided to and among the commanders, officers, and crew thereof, in such proportions as are or may be provided by law, respecting the distribution of prize money: And when accruing to

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any private armed vessel, shall be distributed to and among the owners and company concerned in such recapture according to their agreements, if any such there be; and in case there be no such agreement, then to and among such persons, and in such proportions, as the court having jurisdiction thereof shall appoint.

SEC. 5. *And be it further enacted*, That such parts of any acts of Congress of the United States, as respect the salvage to be allowed in cases of recapture, shall be, and are hereby, repealed, except as to cases of recapture made before the passing of this act.

Approved, March 3, 1800.

An Act declaring the assent of Congress to certain acts of the States of Maryland and Georgia.

Be it enacted, &c., That the consent of Congress be, and hereby is, granted to the operation of an act of the General Assembly of the State of Maryland, passed on the twenty-sixth day of December, one thousand seven hundred and ninety-one, entitled "An act empowering the wardens of the port of Baltimore to levy and collect the duty therein mentioned," and also to so much of an act of the State of Georgia, passed February the tenth, one thousand seven hundred and eighty-seven, entitled "An act for regulating the trade, laying duties on all goods, wares, liquors, merchandise, and negroes, imported into this State; and, also, an impost on the tonnage of shipping, and for other purposes therein mentioned," as authorizes a duty of three pence per ton on all shipping entering the port of Savannah, to be set apart as a fund for clearing the river Savannah.

SEC. 2. *And be it further enacted*, That this act shall be, and continue in force until the third day of March, one thousand eight hundred and eight, and no longer.

Approved, March 17, 1800.

An Act to alter the times of holding the District Court in North Carolina.

Be it enacted, &c., That the sessions of the district court for the district of North Carolina shall hereafter be holden on the first Monday in February, May, August, and November, annually.

SEC. 2. *And be it further enacted*, That all process which shall have been issued, and all recognizances returnable, and all suits and other proceeding, which have been continued to the said district court on the first Monday in April next, shall be returned and held continued to the said court on the first Monday of May next.

Approved, March 19, 1800.

An Act to extend the privilege of franking letters and packages to Martha Washington.

Be it enacted, &c., That all letters and packages to and from Martha Washington, relict of the late General George Washington, shall be received and conveyed by post free of postage, for and during her life.

Approved, April 3, 1800.

An Act to establish a uniform system of Bankruptcy throughout the United States.

Be it enacted, &c., That, from and after the first day of June next, if any merchant, or other person, residing within the United States, actually using the trade of merchandise, by buying and selling in gross, or by retail, or dealing in exchange, or as a banker, broker, factor, underwriter, or marine insurer, shall, with intent unlawfully to delay or defraud his or their creditors, depart from the State in which such person usually resides, or remain absent therefrom, or conceal him or herself therein, or keep his or her house, so that he or she cannot be taken, or served with process, or willingly or fraudulently procure him or herself to be arrested, or his or her lands, goods, money or chattels to be attached, sequestered, or taken in execution, or shall secretly convey his or her goods out of his or her house, or conceal them to prevent their being taken in execution, or make, or cause to be made, any fraudulent conveyance of his or her lands, or chattels, or make or admit any false or fraudulent security, or evidence of debt, or being arrested for debt, or having surrendered him or herself in discharge of bail, shall remain in prison two months, or more, or escape therefrom, or whose lands or effects being attached by process issuing out of, or returnable to, any court of common law, shall not, within two months after written notice thereof, enter special bail and dissolve the same, or in districts in which attachments are not dissolved by the entry of special bail, being arrested for debt after his or her lands and effects, or any part thereof, have been attached for a debt or debts amounting to one thousand dollars or upwards, shall not, upon notice of such attachment, give sufficient security for the payment of what may be recovered in the suit in which he or she shall be arrested, at or before the return day of the same, to be approved by the judge of the district, or some judge of the court out of which the process issued upon which he is arrested, or to which the same shall be returnable, every such person shall be deemed and adjudged a bankrupt: *Provided*, That no person shall be liable to a commission of bankruptcy, if the petition be not preferred, in manner hereinafter directed, within six months after the act of bankruptcy committed.

SEC. 2. *And be it further enacted*, That the judge of the district court of the United States, for the district where the debtor resides, or usually resided at the time of committing the act of bankruptcy, upon petition, in writing, against such person or persons being bankrupt, to him to be exhibited by any one creditor, or by a greater number, being partners, whose single debt shall amount to one thousand dollars, or by two creditors, whose debts shall amount to one thousand five hundred dollars, or by more than two creditors, whose debts shall amount to two thousand dollars, shall have power, by commission under his hand and seal, to appoint such good and substantial persons, being citizens of the United States, and resident in such district, as such judge shall deem proper, not exceeding three, to be commissioners of the said bankruptcy, and in case of vacancy or refusal to

act, to appoint others, from time to time, as occasion may require: *Provided always*, That, before any commission shall issue, the creditor or creditors petitioning shall make affidavit or solemn affirmation, before the said judge, of the truth of his, her, or their debts, and give bond, to be taken by the said judge, in the name, and for the benefit of the said party so charged as a bankrupt, and in such penalty, and with such surety as he shall require, to be conditioned for the proving of his, her, or their debts, as well before the commissioners as upon a trial at law, in case the due issuing forth of the said commission shall be contested, and also for proving the party a bankrupt, and to proceed on such commission, in the manner herein prescribed. And if such debt shall not be really due, or after such commission taken out it cannot be proved that the party was a bankrupt, then the said judge shall, upon the petition of the party aggrieved, in case there be occasion, deliver such bond to the said party, who may sue thereon, and recover such damages, under the penalty of the same, as, upon trial at law, he shall make appear he has sustained, by reason of any breach of the condition thereof.

SEC. 3. *And be it further enacted*, That, before the commissioners shall be capable of acting, they shall respectively take and subscribe the following oath or affirmation, which shall be administered by the judge issuing the commission, or by any of the judges of the Supreme Court of the United States, or any judge, justice, or chancellor of any State court, and filed in the office of the clerk of the district court: "I, A B, do swear, or affirm, that I will faithfully, impartially, and honestly, according to the best of my skill and knowledge, execute the several powers and trusts reposed in me, as a commissioner in a commission of bankruptcy against —, and that without favor or affection, prejudice or malice." And the commissioners, who shall be sworn as aforesaid, shall proceed, as soon as may be, to execute the same; and, upon due examination, and sufficient cause appearing against the party charged, shall and may declare him or her to be a bankrupt: *Provided*, That before such examination be had, reasonable notice thereof, in writing, shall be delivered to the person charged as a bankrupt; or if he, or she, be not found at his or her usual place of abode, to some person of the family above the age of twelve years, or, if no such person appear, shall be fixed at the front or other public door of the house, in which he or she usually resides, and thereupon it shall be in the power of such person, so charged as aforesaid, to demand before, or at the time appointed for such examination, that a jury be empanelled to inquire into the fact or facts alleged as the causes for issuing the commission, and on such demand being made, the inquiry shall be had before the judge granting the commission, at such time as he may direct, and in that case such person shall not be declared bankrupt, unless, by the verdict of the jury, he or she shall be found to be within the description of this act, and shall be convicted of some one of the acts described in the first section of this act: *Provided, also*, That any

commission which shall be taken out as aforesaid, and which shall not be proceeded in as aforesaid, within thirty days thereafter, may be superseded by the said judge, who shall have granted the same, upon the application of the party thereby charged as a bankrupt, or of any creditor of such person, unless the delay shall have been unavoidable, or upon a just occasion.

SEC. 4. *And be it further enacted*, That the commissioners so to be appointed, shall have power forthwith, after they have declared such person a bankrupt, to cause to be apprehended, by warrant under their hands and seals, the body of such bankrupt, wheresoever to be found, within the United States: *Provided*, They shall think that there is reason to apprehend that the said bankrupt intends to abscond or conceal him or herself, and in case it be necessary, in order to take the body of the said bankrupt, shall have power to cause the doors of the dwelling-house of such bankrupt to be broken, or the doors of any other house in which he or she shall be found.

SEC. 5. *And be it further enacted*, That it shall be the duty of the commissioners so to be appointed, forthwith after they have declared such person a bankrupt, and they shall have power to take into their possession, all the estate, real and personal, of every nature and description, to which the said bankrupt may be entitled, either in law or equity, in any manner whatsoever, and cause the same to be inventoried and appraised to the best value, (his or her necessary wearing apparel, and the necessary wearing apparel of the wife and children, and necessary beds and bedding of such bankrupt, only excepted,) and, also, to take into their possession, and secure, all deeds and books of account, papers, and writings, belonging to such bankrupt; and shall cause the same to be safely kept, until assignees shall be chosen or appointed, in manner hereafter provided.

SEC. 6. *And be it further enacted*, That the said commissioners shall, forthwith after they have declared such person a bankrupt, cause due and sufficient public notice thereof to be given, and in such notice shall appoint some convenient time and place for the creditors to meet, in order to choose an assignee or assignees of the said bankrupt's estate and effects; at which meeting the said commissioners shall admit the creditors of such bankrupt to prove their debts; and where any creditor shall reside at a distance from the place of such meeting, shall allow the debt of such creditor to be proved by oath or affirmation, made before some competent authority, and duly certified, and shall permit any person duly authorized by letter of attorney from such creditor, due proof of the execution of such letter of attorney being first made, to vote in the choice of an assignee or assignees of such bankrupt's estate and effects, in the place and stead of such creditor: And the said commissioners shall assign, transfer, or deliver over, all and singular the said bankrupt's estate and effects aforesaid, with all muniments and evidences thereof, to such person or persons as the major part, in value, of such creditors, according to the several debts then proved, shall choose as

aforesaid: *Provided always*, That in such choice, no vote shall be given by, or in behalf of, any creditor whose debt shall not amount to two hundred dollars.

SEC. 7. *Provided always, and be it further enacted*, That it shall be lawful for the said commissioners, as often as they shall see cause, for the better preserving and securing the bankrupt's estate, before assignees shall be chosen as aforesaid, immediately to appoint one or more assignee or assignees of the estate and effects aforesaid, or any part thereof; which assignee or assignees aforesaid, or any of them, may be removed at the meeting of the creditors, so to be appointed as aforesaid, for the choice of assignees, if such creditors, entitled to vote as aforesaid, or the major part, in value, of them, shall think fit; and such assignee or assignees as shall be so removed, shall deliver up all the estate and effects of such bankrupt, which shall have come to his or their hands or possession, unto such other assignee or assignees as shall be chosen by the creditors as aforesaid; and all such estate and effects shall be, to all intents and purposes, as effectually and legally vested in such new assignee or assignees, as if the first assignment had been made to him or them, by the said commissioners; and if such first assignee or assignees shall refuse or neglect, for the space of ten days next after notice, in writing, from such new assignee or assignees, of their appointment, as aforesaid, to deliver over as aforesaid, all the estate and effects as aforesaid, every such assignee or assignees, shall, respectively, forfeit a sum not exceeding five thousand dollars, for the use of the creditors, and shall moreover be liable for the property so detained.

SEC. 8. *And be it further enacted*, That at any time, previous to the closing of the accounts of the said assignee or assignees so chosen as aforesaid, it shall be lawful for such creditors of the bankrupt, as are hereby authorized to vote in the choice of assignees, or the major part of them, in value, at a regular meeting of the said creditors, to be called for that purpose, by the said commissioners, or by one-fourth, in value, of such creditors, to remove all or any of the assignees chosen as aforesaid, and to choose one or more in his or their place and stead; and such assignee or assignees as shall be so removed, shall deliver up all the estate and effects of such bankrupt, which shall have come into his or their hands or possession, unto such new assignee or assignees as shall be chosen by the creditors at such meeting; and all such estate and effects shall be, to all intents and purposes, as effectually and legally vested in such new assignee or assignees, as if the first assignment had been made to him or them, by the said commissioners: And if such former assignee or assignees shall refuse or neglect, for the space of ten days next after notice, in writing, from such new assignee or assignees, of their appointment, as aforesaid, to deliver over, as aforesaid, all the estate and effects aforesaid, every such former assignee or assignees, shall, respectively, forfeit a sum not exceeding five thousand dollars, for the use of the creditors, and shall moreover be liable for the property so detained.

SEC. 9. *And be it further enacted*, That whenever a new assignee or assignees shall be chosen, as aforesaid, no suit at law or in equity shall be thereby abated; but it shall and may be lawful for the court in which any suit may depend, upon the suggestion of a removal of a former assignee or assignees, and of the appointment of a new assignee or assignees; to allow the name of such new assignee or assignees to be substituted in place of the name or names of the former assignee or assignees, and thereupon the suit shall be prosecuted in the name or names of the new assignee or assignees, in the same manner as if he or they had originally commenced the suit in his or their own names.

SEC. 10. *And be it further enacted*, That the assignment or assignments of the commissioners of the bankrupt's estate and effects as aforesaid, made as aforesaid, shall be good at law or in equity, against the bankrupt; and all persons claiming by, from, or under, such bankrupt, by any act done at the time, or after he shall have committed the act of bankruptcy, upon which the commission issued: *Provided always*, That in case of a bona fide purchase made before the issuing of the commission from or under such bankrupt, for a valuable consideration, by any person having no knowledge, information, or notice, of any act of bankruptcy committed, such purchase shall not be invalidated or impeached.

SEC. 11. *And be it further enacted*, That the said commissioners shall have power, by deed or deeds, under their hands and seals, to assign and convey to the assignee or assignees, to be appointed or chosen as aforesaid, any lands, tenements, or hereditaments, which such bankrupt shall be seized of, or entitled to, in fee tail, at law, or in equity, in possession, remainder, or reversion, for the benefit of the creditors; and all such deeds, being duly executed and recorded, according to the laws of the State within which such lands, tenements, or hereditaments may be situate, shall be good and effectual against all persons whom the said bankrupt, by common recovery, or other means, might or could bar of any estate, right, title, or possibility, of or in the said lands, tenements, or hereditaments.

SEC. 12. *And be it further enacted*, That if any bankrupt shall have conveyed or assured any lands, goods, or estate, unto any person, upon condition or power of redemption, by payment of money or otherwise, it shall be lawful for the commissioners, or for any person by them duly authorized for that purpose, by writing, under their hands and seals, to make tender of money or other performance, according to the nature of such condition, as fully as the bankrupt might have done; and the commissioners, after such performance or tender, shall have power to assign such lands, goods, and estate, for the benefit of the creditors, as fully and effectually as any other part of the estate of such bankrupt.

SEC. 13. *And be it further enacted*, That the commissioners aforesaid shall have power to assign, for the use aforesaid, all the debts due to such bankrupt, or to any other person for his or her use

or benefit; which assignment shall vest the property and right thereof in the assignee or assignees of such bankrupt, as fully as if the bond, judgment, contract, or claim, had originally belonged or been made to the said assignees; and after the said assignment, neither the said bankrupt, nor any person acting as trustee for him or her, shall have power to recover or discharge the same, nor shall the same be attached as the debt of the said bankrupt; but the assignee or assignees aforesaid shall have such remedy to recover the same, in his or their own name or names, as such bankrupt might or could have had, if no commission of bankruptcy had issued: And when any action in the name of such bankrupt shall have been commenced, and shall be pending, for the recovery of any debt or effects of such bankrupt, which shall be assigned, or shall, or might become vested in the assignee or assignees of such bankrupt as aforesaid, then such assignee or assignees may claim to be, and shall be thereupon, admitted to prosecute such action in his or their name, for the use and benefit of the creditors of such bankrupt; and the same judgment shall be rendered in such action, and all attachments or other security taken therein, shall be in like manner holden and liable, as if the said action had been originally commenced in the name of such assignee or assignees, after the original plaintiff therein had become a bankrupt as aforesaid: *Provided*, That where a debtor shall have, bona fide, paid his debt to any bankrupt, without notice that such person was bankrupt, he or she shall not be liable to pay the same to the assignee or assignees.

SEC. 14. *And be it further enacted*, That if complaint shall be made or information given to the commissioners, or if they shall have good reason to believe or suspect, that any of the property, goods, chattels, or debts, of the bankrupt, are in the possession of any other person, or that any person is indebted to, or for the use of the bankrupt, then the said commissioners shall have power to summon, or cause to be summoned, by their attorney or other person duly authorized by them, all such persons before them, or the judge of a district where such persons shall reside, by such process, or other means, as they shall think convenient, and, upon their appearance, to examine them by parole, or by interrogatories, in writing, on oath or affirmation, which oath or affirmation they are hereby empowered to administer, respecting the knowledge of all such property, goods, chattels, and debts; and if such person shall refuse to be sworn or affirmed, and to make answers to such questions or interrogatories as shall be administered, and to subscribe the said answers, or upon examination shall not declare the whole truth, touching the subject-matter of such examination, then it shall be lawful for the commissioners, or judge, to commit such person to prison, there to be detained until they shall submit themselves to be examined in manner aforesaid, and they shall, moreover, forfeit double the value of all the property, goods, chattels, and debts, by them concealed.

SEC. 15. *And be it further enacted*, That if any

of the aforesaid persons shall, after legal summons to appear before the commissioners or judge, to be examined, refuse to attend, or shall not attend at the time appointed, having no such impediment as shall be allowed of by the commissioner or judge, it shall be lawful for the said commissioners or judge to direct their warrants to such person or persons as by them shall be thought proper, to apprehend such persons as shall refuse to appear, and to bring them before the commissioners or judge, to be examined, and upon their refusal to come, to commit them to prison, until they shall submit themselves to be examined, according to the directions of this act: *Provided*, That such witnesses as shall be sent for, shall be allowed such compensation as the commissioners, or judge, shall think fit, to be rateably borne by the creditors; and if any person, other than the bankrupt, either by subornation of others, or by his or her own act, shall wilfully or corruptly commit perjury on such examination, to be taken before the commissioners as aforesaid, the party so offending, and all persons who shall procure any person to commit such perjury, shall, on conviction thereof, be fined, not exceeding four thousand dollars, and imprisoned, not exceeding two years, and moreover shall, in either case, be rendered incapable of being a witness in any court of record.

SEC. 16. *And be it further enacted*, That if any person or persons shall fraudulently, or collusively claim any debts, or claim or detain any real or personal estate of the bankrupt, every such person shall forfeit double the value thereof, to and for the use of the creditors.

SEC. 17. *And be it further enacted*, That if any person, prior to his or her becoming a bankrupt, shall convey to any of his or her children, or other persons, any lands or goods, or transfer his or [her] debts or demands into other person's names, with intent to defraud his or her creditors, the commissioners shall have power to assign the same, in as effectual a manner as if the bankrupt had been actually seized or possessed thereof.

SEC. 18. *And be it further enacted*, That if any person or persons who shall become bankrupt within the intent and meaning of this act, and against whom a commission of bankruptcy shall be duly issued, upon which commission such person or persons shall be declared bankrupt, shall not, within forty-two days after notice thereof, in writing, to be left at the usual place of abode of such person or persons, or personal notice in case such person or persons be then in prison, and notice given in some gazette, that such commission hath been issued, and of the time and place of meeting of the commissioners, surrender him or herself to the said commissioners, and sign or subscribe such surrender, and submit to be examined, from time to time, upon oath or solemn affirmation, by and before such commissioners, and in all things conform to the provisions of this act, and also upon such his or her examination, fully and truly disclose and discover all his or her effects and estate, real and personal, and how and in what manner, to whom and upon what consideration, and at what time or times he or she hath dis-

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posed of, assigned or transferred, any of his or her goods, wares, or merchandise, moneys, or other effects and estate, and of all books, papers, and writings, relating thereunto, of which he or she was possessed, or in or to which he or she was any ways interested or entitled, or which any person or persons shall then have, or shall have had in trust for him or her, or for his or her use, at any time before or after the issuing of the said commission, or whereby such bankrupt, or his or her family, then hath, or may have or expect any profit, possibility of profit, benefit or advantage whatsoever, except only such part of his or her estate and effects as shall have been really and bona fide before sold and disposed of, in the way of his or her trade and dealings, and except such sums of money as shall have been laid out in the ordinary expenses of his or her family, and also, upon such examination, execute in due form of law, such conveyance, assurance, and assignment of his or her estate, whatsoever and wheresoever, as shall be devised and directed by the commissioners, to vest the same in the assignees, their heirs, executors, administrators, and assigns, for ever, in trust, for the use of all and every the creditors of such bankrupt, who shall come in and prove their debts under the commission; and deliver up unto the commissioners, all such part of his or her, the said bankrupt's, goods, wares, merchandise, money, effects, and estate, and all books, papers, and writings, relating thereunto, as at the time of such examination shall be in his or her possession, custody, or power, his or her necessary wearing apparel, and the necessary wearing apparel of the wife and children, and necessary beds and bedding, of such bankrupt only excepted, then he or she, the said bankrupt, upon the conviction of any wilful default, or omission in any of the matters or things aforesaid, shall be adjudged a fraudulent bankrupt, and shall suffer imprisonment for a term not less than twelve months, nor exceeding ten years, and shall not, at any time after, be entitled to the benefits of this act: *Provided always*, That in case any bankrupt shall be in prison or custody at the time of issuing such commission, and is willing to surrender and submit to be examined, according to the directions of this act, and can be brought before the said commissioners and creditors for that purpose, the expense thereof shall be paid out of the said bankrupt's effects, and in case such bankrupt is in execution, or cannot be brought before the commissioners, that then the said commissioners, or some one of them, shall, from time to time, attend the said bankrupt in prison or custody, and take his or her discovery as in other cases, and the assignees, or one of them, or some person appointed by them, shall attend such bankrupt in prison or custody, and produce his or her books, papers, and writings, in order to enable him or her to prepare his or her discovery; a copy whereof the said assignees shall apply for, and the said bankrupt shall deliver to them or their order, within a reasonable time after the same shall have been required.

SEC. 19. *And be it further enacted*, That the said commissioners shall appoint, within the said forty-two days, so limited as aforesaid, for the bank-

rupt to surrender and conform as aforesaid, not less than three several meetings for the purposes aforesaid, the third of which meetings shall be on the last of the said forty-two days: *Provided always*, That the judge of the district within which such commission issues, shall have power to enlarge the time so limited as aforesaid, for the purposes aforesaid, as he shall think fit, not exceeding fifty days, to be computed from the end of the said forty-two days, so as such order for enlarging the time be made at least six days before the expiration of said term.

SEC. 20. *And be it further enacted*, That it shall be lawful for the commissioners, or any other person or officers, by them to be appointed by their warrant, under their hands and seals, to break open in the day-time the houses, chambers, shops, warehouses, doors, trunks, or chests, of the bankrupt, where any of his or her goods or estate, deeds, books of account, or writings, shall be, and to take possession of the goods, money, and other estate, deeds, books of account, or writings, of such bankrupt.

SEC. 21. *And be it further enacted*, That if the bankrupt shall refuse to be examined, or to answer fully, or to subscribe his or her examination, as aforesaid, it shall be lawful for the commissioners to commit the offender to close imprisonment, until he or she shall conform him or herself; and if the said bankrupt shall submit to be examined, and upon his or her examination, it shall appear that he or she hath committed wilful or corrupt perjury, he or she may be indicted therefor, and, being thereof convicted, shall suffer imprisonment for a term not less than two years, nor exceeding ten years.

SEC. 22. *And be it further enacted*, That every bankrupt, having surrendered, shall, at all seasonable times before the expiration of the said forty-two days, as aforesaid, or of such further time as shall be allowed to finish his or her examination, be at liberty to inspect his or her books and writings, in the presence of some person to be appointed by the commissioners, and to bring with him or her, for his or her assistance, such persons as he or she shall think fit, not exceeding two at one time, and to make extracts and copies, to enable him or her to make a full discovery of his or her effects; and the said bankrupt shall be free from arrests, in coming to surrender, and, after having surrendered to the said commissioners, for the said forty-two days, or such further time as shall be allowed for the finishing his or her examination; and in case such bankrupt shall be arrested for debt, or taken on any escape warrant or execution, coming to surrender, or after his surrender, within the time before mentioned, then on producing such summons or notice under the hand of the commissioners, and giving the officer a copy thereof, he or she shall be discharged; and in case any officer shall afterwards detain such bankrupt, such officers shall forfeit to such bankrupt, for his or her own use, ten dollars for every day he shall detain the bankrupt.

SEC. 23. *And be it further enacted*, That every person who shall, knowingly, or wilfully, receive

or keep concealed any bankrupt, so as aforesaid summoned to appear, or who shall assist such bankrupt in concealing him or herself, or in absconding, shall suffer such imprisonment, not exceeding twelve months, or pay such fine to the United States, not exceeding one thousand dollars, as upon conviction thereof shall be adjudged.

SEC. 24. *And be it further enacted,* That the said commissioners shall have power to examine, upon oath or affirmation, the wife of any person lawfully declared a bankrupt, for the discovery of such part of his estate as may be concealed or disposed of by such wife, or by any other person; and the said wife shall incur such penalties for not appearing before the said commissioners, or refusing to be sworn or affirmed, or examined, and to subscribe her examination, or for not disclosing the truth, as by this act is provided against any other person in like cases.

SEC. 25. *And be it further enacted,* That in case any person shall be committed by the commissioners for refusing to answer, or for not fully answering, any question, or for any other cause, the commissioners shall, in their warrant, specify such question or other cause of commitment.

SEC. 26. *And be it further enacted,* That if after the bankrupt shall have finished his or her final examination, any other person or persons shall voluntarily make discovery of any part of such bankrupt's estate, before unknown to the commissioners, such person or persons shall be entitled to five per cent. out of the effects so discovered, and such further reward as the commissioners shall think proper; and any trustee, having notice of the bankruptcy, wilfully concealing the estate of any bankrupt, for the space of ten days after the bankrupt shall have finished his final examination, as aforesaid, shall forfeit double the value of the estate so concealed, for the benefit of the creditors.

SEC. 27. *And be it further enacted,* That if any person shall become bankrupt, and at such time, by consent of the owner, have in his or her possession and disposition, any goods whereof he or she shall be reputed owner, and take upon him or herself, the sale, alteration, or disposition thereof, as owner, the commissioners shall have power to assign the same, for the benefit of the creditors, as fully as any other part of the estate of the bankrupt.

SEC. 28. *And be it further enacted,* That if any bankrupt, after the issuing any commission against him or her, pay to the person who sued out the same, or give or deliver to such person, goods, or any other satisfaction or security, for his or her debt, whereby such person shall privately have and receive a greater proportion of his or her debt than the other creditors, such preference shall be a new act of bankruptcy, and, on good proof thereof, such commission shall and may be superseded, and it shall and may be lawful for either of the judges, having authority to grant the commission as aforesaid, to award any creditor petitioning another commission; and such person, so taking such undue satisfaction as aforesaid, shall forfeit and lose, as well his or her whole debts, as the whole he or she shall have taken and received,

and shall pay back, or deliver up the same, or the full value thereof, to the assignee or assignees who shall be appointed or chosen under such commission, in manner aforesaid, in trust for, and to be divided among the other creditors of the said bankrupt, in proportion to their respective debts.

SEC. 29. *And be it further enacted,* That every person who shall be chosen assignee of the estate and effects of a bankrupt, shall, at some time after the expiration of four months, and within twelve months from the time of issuing the commission, cause at least thirty days public notice to be given, of the time and place the commissioners and assignees intend to meet, to make a dividend or distribution of the bankrupt's estate and effects; at which time the creditors, who have not before proved their debts, shall be at liberty to prove the same; and, upon every such meeting, the assignee or assignees shall produce to the commissioners and creditors, then present, fair and just accounts of all his or their receipts and payments, touching the bankrupt's estate and effects, and of what shall remain outstanding, and the particulars thereof, and shall, if the creditors then present, or a major part of them, require the same, be examined upon oath or solemn affirmation, before the same commissioners, touching the truth of such accounts; and in such accounts the said assignee or assignees shall be allowed and retain all such sums of money, as they shall have paid or expended in suing out and prosecuting the commission, and all other just allowances on account of, or by reason or means of their being assignee or assignees; and the said commissioners shall order such part of the net produce of the said bankrupt's estate, as by such accounts or otherwise shall appear to be in the hands of the said assignees, as they shall think fit, to be forthwith divided among such of the bankrupt's creditors as have duly proved their debts under such commission, in proportion to their several and respective debts; and the commissioners shall make such their order for a dividend in writing, under their hands, and shall cause one part of such order to be filed amongst the proceedings under the said commission, and shall deliver unto each of the assignees, under such commission, a duplicate of such their order, which order of distribution shall contain an account of the time and place of making such order, and the sum total or quantum of all the debts proved under the commission, and the sum total of the money remaining in the hands of the assignee or assignees to be divided, and how many per cent. in particular is there ordered to be paid to every creditor of his debt; the said assignee or assignees in pursuance of such order, and without any deed or deeds of distribution, to be made for the purpose, shall forthwith make such dividend and distribution accordingly, and shall take receipts, in a book to be kept for the purpose, from each creditor, for the part or share of such dividend or distribution, which he or they shall make, and pay to each creditor respectively; and such order and receipt shall be a full and effectual discharge to such assignee for so much as he shall fairly pay, pursuant to such order as aforesaid.

SEC. 30. *And be it further enacted*, That, within eighteen months next after the issuing of the commission, the assignee or assignees shall make a second dividend of the bankrupt's estate and effects, in case the same were not wholly divided upon the first dividend, and shall cause due public notice to be given of the time and place the said commissioners intend to meet, to make a second distribution of the bankrupt's estate and effects, and for the creditors who shall not before have proved their debts, to come in and prove the same; and at such meeting, the said assignees shall produce, on oath or solemn affirmation, as aforesaid, their accounts of the bankrupt's estate and effects, and what, upon the balance thereof, shall appear to be in their hands, shall, by like order of the commissioners, be forthwith divided amongst such of the bankrupt's creditors as shall have made due proof of their debts, in proportion to their several and respective debts; which second dividend shall be final, unless any suit at law, or equity, be depending, or any part of the estate standing out, that could not have been disposed of, or that the major part of the creditors shall not have agreed to be sold or disposed of, or unless some other or future estate or effects of the bankrupt shall afterwards come to, or rest in the said assignees, in which cases the said assignees shall, as soon as may be, convert such future or other estate and effects into money, and shall, within two months after the same be converted into money, by like order of the commissioners, divide the same among such bankrupt's creditors as shall have made due proof of their debt under such commission.

SEC. 31. *And be it further enacted*, That, in the distribution of the bankrupt's effects, there shall be paid to every of the creditors a portion rate, according to the amount of their respective debts, so that every creditor having security for his debt by judgment, statute, recognizance, or specialty, or having an attachment under any of the laws of the individual States, or of the United States, on the estate of such bankrupt, (*Provided*, there be no execution executed upon any of the real or personal estate of such bankrupt, before the time he or she became bankrupts,) shall not be relieved upon any such judgment, statute, recognizance, specialty, or attachment, for more than a rateable part of his debt, with the other creditors of the bankrupt.

SEC. 32. *And be it further enacted*, That the assignees shall keep one or more distinct book or books of account, wherein he or they shall duly enter all sums of money or effects, which he or they shall have received, or got into his or their possession, of the said bankrupt's estate, to which books of account, every creditor, who shall have proved his or her debt, shall, at all reasonable times, have free resort, and inspect the same as often as he or she shall think fit.

SEC. 33. *And be it further enacted*. That every bankrupt, not being in prison or custody, shall, at all times after his surrender, be bound to attend the assignees, upon every reasonable notice, in writing, for that purpose, given or left at the usual place of his or her abode, in order to assist in making out the accounts of the said bankrupt's estate and

effects, and to attend any court of record, to be examined touching the same, or such other business as the said assignees shall judge necessary, for which he shall receive three dollars per day.

SEC. 34. *And be it further enacted*, That all and every person and persons who shall become bankrupt as aforesaid, and who shall, within the time limited by this act, surrender him or herself to the commissioners, and in all things conform as in and by this act is directed, shall be allowed five per cent. upon the net produce of all the estate that shall be recovered in and received, which shall be paid unto him or her by the assignee or assignees, in case the net produce of such estate, after such allowance made, shall be sufficient to pay the creditors of said bankrupt, who shall have proved their debts under such commission, the amount of fifty per cent. on their said debts, respectively, and so as the said five per cent. shall not exceed in the whole the sum of five hundred dollars; and in case the net produce of the said estate shall, over and above the allowance hereafter mentioned, be sufficient to pay the said creditors seventy-five per cent. on the amount of their said debts, respectively, that then the said bankrupt shall be allowed ten per cent. on the amount of such net produce, to be paid as aforesaid, so as such ten per cent. shall not in the whole, exceed the sum of eight hundred dollars; and every such bankrupt shall be discharged from all debts by him or her due or owing, at the time he or she became bankrupt, and all which were or might have been proved under the said commission; and in case any such bankrupt shall afterwards be arrested, prosecuted or impleaded, for or on account of any of the said debts, such bankrupt may appear without bail, and may plead the general issue, and give this act, and the special matter in evidence: And the certificate of such bankrupt's conforming, and the allowance thereof, according to the directions of this act, shall be, and shall be allowed to be, sufficient evidence, *prima facie*, of the party's being a bankrupt within the meaning of this act, and of the commission and other proceedings precedent to the obtaining such certificate, and a verdict shall thereupon pass for the defendant, unless the plaintiff in such action can prove the said certificate was obtained unfairly, and by fraud, or unless he can make appear any concealment of estate or effects, by such bankrupt, to the value of one hundred dollars: *Provided*, That no such discharge of a bankrupt shall release or discharge any person who was a partner with such bankrupt, at the time he or she became bankrupt, or who was then jointly held or bound with such bankrupt, for the same debt or debts from which such bankrupt was discharged as aforesaid.

SEC. 35. *Provided always, and be it further enacted*, That if the net proceeds of the bankrupt's estate, so to be discovered, recovered, and received, shall not amount to so much as will pay all and every of the creditors of the said bankrupt, who shall have proved their debts under the said commission, the amount of fifty per cent. on their debts respectively, after all charges first deducted, that then, and in such case, the bankrupt shall not be allowed five per centum on such estate as shall be

recovered in, but shall have and be paid by the assignees so much money as the commissioners shall think fit to allow, not more than three hundred dollars, nor exceeding two per centum on the net proceeds of the said bankrupt's estate.

SEC. 36. *Provided also, and be it further enacted*, That no person becoming a bankrupt according to the intent and provisions of this act, shall be entitled to a certificate of discharge, or to any of the benefits of the act, unless the commissioners shall certify under their hands, to the judge of the district within which such commission issues, that such bankrupt hath made a full discovery of his or her estate and effects, and in all things conformed him or herself to the directions of this act, and that there doth not appear to them any reason to doubt of the truth of such discovery, or that the same was not a full discovery of the said bankrupt's estate and effects; or unless the said judge should be of opinion that the said certificate was unreasonably denied by the commissioners; and unless two-thirds in number and in value of the creditors of the bankrupt, who shall be creditors for not less than fifty dollars respectively, and who shall have duly proved their debts under the said commission, shall sign such certificate to the judge, and testify their consent to the allowance of a certificate of discharge, in pursuance of this act; which signing and consent shall be also certified by the commissioners; but the said commissioners shall not certify the same till they have proof by affidavit or information, in writing, of such creditors, or of the persons respectively authorized for that purpose, signing the said certificate; which affidavit or information, together with the letter or power of attorney to sign, shall be laid before the judge of the district within which such commission issues, in order for the allowing the certificate of discharge, and the said certificate shall not be allowed unless the bankrupt make oath or affirmation, in writing, that the certificate of the commissioners, and consent of the creditors thereunto were obtained fairly and without fraud; and any of the creditors of the said bankrupt are allowed to be heard, if they shall think fit, before the respective persons aforesaid, against the making or allowing of such certificates by the commissioners or judge.

SEC. 37. *And be it further enacted*, That if any creditor, or pretended creditor, of any bankrupt, shall exhibit to the commissioners any fictitious or false debt or demand, with intent to defraud the real creditors of such bankrupt, and the bankrupt shall refuse to make discovery thereof, and suffer the fair creditors to be imposed upon, he shall lose all title to the allowance upon the amount of his effects, and to a certificate of discharge as aforesaid, nor shall he be entitled to the said allowance or certificate, if he has lost at any one time fifty dollars, or in the whole three hundred dollars, after the passing of this act, and within twelve months before he became a bankrupt, by any manner of gaming or wagering whatever.

SEC. 38. *And be it further enacted*, That if any bankrupt, who shall have obtained his certificate,

shall be taken in execution or detained in prison, on account of any debts owing before he became a bankrupt, by reason that judgment was obtained before such certificate was allowed, it shall be lawful for any of the judges of the court wherein judgment was obtained, or for any court, judge, or justice, within the district in which such bankrupt shall be detained, having powers to award or allow the writ of habeas corpus, on such bankrupt producing his certificate so as aforesaid allowed, to order any sheriff or jailer who shall have such bankrupt in custody, to discharge such bankrupt without fee or charge, first giving reasonable notice to the plaintiff, or his attorney, of the motion for such discharge.

SEC. 39. *And be it further enacted*, That every person who shall have bona fide given credit to or taken securities, payable at future days, from persons who are or shall become bankrupts, not due at the time of such persons becoming bankrupt, shall be admitted to prove their debts and contracts, as if they were payable presently, and shall have a dividend in proportion to the other creditors, discounting, where no interest is payable, at the rate of so much per centum per annum, as is equal to the lawful interest of the State where the debt was payable; and the obligee of any bottomry or respondentia bond, and the assured in any policy of insurance, shall be admitted to claim, and after the contingency or loss, to prove the debt thereon, in like manner as if the same had happened before issuing the commission; and the bankrupt shall be discharged from such securities, as if such money had been due and payable before the time of his or her becoming bankrupt; and such creditors may petition for a commission, or join in petitioning.

SEC. 40. *And be it further enacted*, That in case any person, committed by the commissioners' warrant, shall obtain a habeas corpus, in order to be discharged, and there shall appear any insufficiency in the form of the warrant, it shall be lawful for the court or judge before whom such party shall be brought by habeas corpus, by rule or warrant, to commit such person to the same prison, there to remain until he shall conform as aforesaid, unless it shall be made to appear that he had fully answered all lawful questions put to him by the commissioners; or in case such person was committed for not signing his examination, unless it shall appear that the party had good reason for refusing to sign the same, or that the commissioners had exceeded their authority in making such commitment; and in case the jailer to whom such person shall be committed shall wilfully or negligently suffer such person to escape, or to go without the doors or walls of the prison, such jailer shall, for such offence, being convicted thereof, forfeit a sum not exceeding three thousand dollars for the use of the creditors.

SEC. 41. *And be it further enacted*, That the jailer shall, upon the request of any creditor, having proved his debt, and showing a certificate thereof, under the hands of the commissioners, which the commissioners shall give without fee or reward, produce the person so committed; and

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in case such jailer shall refuse to show such person to such creditor requesting the same, such person shall be considered as having escaped, and the jailer or sheriff so refusing shall be liable as for a wilful escape.

SEC. 42. *And be it further enacted*, That where it shall appear to the said commissioners that there hath been mutual credit given by the bankrupt, and any other person, or mutual debts between them at any time before such person became bankrupt, the assignee or assignees of the estate shall state the account between them, and one debt may be set off against the other, and what shall appear to be due on either side on the balance of such account after such set-off, and no more, shall be claimed or paid on either side, respectively.

SEC. 43. *And be it further enacted*, That it shall and may be lawful to and for the assignee or assignees of any bankrupt's estate and effects, under the direction of the commissioners, and by and with the consent of the major part in value of such of the said bankrupt's creditors as shall have duly proved their debts under the commission, and shall be present at any meeting of the said creditors, to be held in pursuance of due and public notice for that purpose given, to submit any difference or dispute for, on account of, or by reason or means of, any matter, cause, or thing whatsoever, relating to such bankrupt, or to his or her estate or effects, to the final end and determination of arbitrators to be chosen by the said commissioners, and the major part in value of such creditors as shall be present at such meeting as aforesaid, and the party or parties with whom they shall have had such difference or dispute, and to perform the award of such arbitrators, or otherwise to compound and agree the matter in difference and dispute aforesaid, in such manner as the said assignee or assignees, under the direction and with the consent aforesaid, shall think fit and can agree; and the same shall be binding on the several creditors of the said bankrupt, and the said assignee or assignees are hereby indemnified for what they shall fairly do, according to the directions aforesaid.

SEC. 44. *And be it further enacted*, That the assignees shall be, and hereby are, vested with full power to dispose of all the bankrupt's estate, real and personal, at public auction or vendue, without being subject to any tax, duty, imposition, or restriction, any law to the contrary notwithstanding.

SEC. 45. *And be it further enacted*, That if after any commission of bankruptcy, sued forth, the bankrupt happen to die before the commissioners shall have distributed the effects, or any part thereof, the commissioners shall, nevertheless, proceed to execute the commission, as fully as they might have done if the party were living.

SEC. 46. *And be it further enacted*, That where any commission of bankruptcy shall be delivered to the commissioners therein named, to be executed, it shall and may be lawful for them, before they take the oath or affirmation of qualification, to demand and take from the creditor or creditors

prosecuting such commission, a bond with one good security, if required, in the penalty of one thousand dollars, conditioned for the payment of the costs, charges, and expenses, which shall arise and accrue upon the prosecution of the said commission: *Provided, always*, That the expenses so as aforesaid to be secured and paid by the petitioning creditor or creditors, shall be repaid to him or them by the commissioners or assignees, out of the first moneys arising from the bankrupt's estate or effects, if so much be received therefrom.

SEC. 47. *And be it further enacted*, That the district judges, in each district, respectively, shall fix a rate of allowance to be made to the commissioners of bankruptcy, as compensation of services to be rendered under the commission, and it shall be lawful for any creditor, by petition to the district judge, to except to any charge contained in the account of the commissioners; and the said judge, after hearing the commissioners, may in a summary way decide upon the validity of such exception.

SEC. 48. *And be it further enacted*, That all penalties given by this act for the benefit of the creditors, shall be recovered by the assignee or assignees by action of debt, and the money so recovered, the charges of suit being deducted, shall be distributed towards payment of the creditors.

SEC. 49. *And be it further enacted*, That if any action shall be brought against any commissioner, or assignee, or other person, having authority under the commission, for anything done or performed by force of this act, the defendant may plead the general issue, and give this act and the special matter in evidence; and in case of a non-suit, discontinuance, or verdict or judgment for him, he shall recover double costs.

SEC. 50. *And be it further enacted*, That if any estate, real or personal, shall descend, revert to, or become vested in, any person, after he or she shall be declared a bankrupt, and before he or she shall obtain a certificate, signed by the judge as aforesaid, all such estate shall, by virtue of this act, be vested in the said commissioners, and shall be by them assigned and conveyed to the assignee or assignees in fee simple, or otherwise, in like manner as above directed, with the estate of the said bankrupt, at the time of the bankruptcy, and the proceeds thereof shall be divided among the creditors.

SEC. 51. *And be it further enacted*, That the said commissioners shall, once in every year, carefully file, in the clerk's office of the district court, all the proceedings had in every case before them, and which shall have been finished, including the commissions, examinations, dividends, entries, and other determinations, of the said commissioners, in which office the final certificate of the said bankrupt may also be recorded; all which proceedings shall remain of record in the said office, and certified copies thereof shall be admitted as evidence in all courts, in like manner as the copies of the proceedings of the said district court are admitted in other cases.

SEC. 52. *And be it further enacted*, That it shall and may be lawful for any creditor of such bank-

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rupt, to attend all or any of the examinations of said bankrupt, and the allowance of the final certificate, if he shall think proper, and then and there to propose interrogatories, to be put by the judge or commissioners, to the said bankrupt and others, and also to produce and examine witnesses and documents, before such judge or commissioners, relative to the subject-matter before them. And in case either the bankrupt or creditor shall think him or herself aggrieved by the determination of the said judge or commissioners, relative to any material fact, in the commencement or progress of the said proceedings, or in the allowance of the certificate aforesaid, it shall and may be lawful for either party to petition the said judge, setting forth such facts and the determination thereon, with the complaint of the party, and a prayer for trial by a jury to determine the same, and the said judge shall, in his discretion, make order thereon, and award a *venire facias* to the marshal of the district, returnable within fifteen days before him, for the trial of the facts mentioned in the said petition, notice whereof shall be given to the commissioners and creditors concerned in the same; at which time the said trial shall be had, unless, on good cause shown, the judge shall give farther time; and judgment being entered on the verdict of the jury, shall be final, on the said facts, and the judge or commissioners shall proceed agreeably thereto.

SEC. 53. *And be it further enacted*, That the commissioners, before the appointment of assignees, and the assignees after such appointment, may, from time to time, make such allowance out of the bankrupt's estate, until he shall have obtained his final discharge, as in their opinion may be requisite for the necessary support of the said bankrupt and his family.

SEC. 54. *And be it further enacted*, That it shall be lawful for the major part in value of the creditors, before they proceed to the choice of assignees, to direct in what manner, with whom, and where, the moneys arising by, and to be received from time to time out of, the bankrupt's estate, shall be lodged until the same shall be divided among the creditors, as herein provided; to which direction every such assignee and assignees shall conform as often as three hundred dollars shall be received.

SEC. 55. *And be it further enacted*, That every matter and thing, by this act required to be done by the commissioners of any bankrupt, shall be valid to all intents and purposes, if performed by a majority of them.

SEC. 56. *And be it further enacted*, That in all cases where the assignees shall prosecute any debtor of the bankrupt, for any debt, duty, or demand, the commission, or a certified copy thereof, and the assignment of the commissioners of the bankrupt's estate, shall be conclusive evidence of the issuing the commission, and of the person named therein being a trader and bankrupt, at the time mentioned therein.

SEC. 57. *And be it further enacted*, That every person obtaining a discharge from his debts, by certificate as aforesaid, granted under a commission of bankruptcy, shall not, on any future com-

mission, be entitled to any other certificate than a discharge of his person only; unless the net proceeds of the estate and effects of such person, so becoming bankrupt a second time, shall be sufficient to pay seventy-five per cent. to his or her creditors on the amount of their debts respectively.

SEC. 58. *And be it further enacted*, That any creditor of a person, against whom a commission of bankruptcy shall have been sued forth, and who shall lay his claim before the commissioners appointed in pursuance of this act, may at the same time declare his unwillingness to submit the same to the judgment of the said commissioners, and his wish that a jury may be impaneled to decide thereon: And in like manner the assignee or assignees of such bankrupt may object to the consideration of any particular claim by the commissioners, and require that the same should be referred to a jury. In either case, such objection and request shall be entered on the books of the commissioners, and thereupon an issue shall be made up between the parties, and a jury shall be impaneled, as in other cases, to try the same in the circuit court for the district in which such bankrupt has usually resided. The verdict of such jury shall be subject to the control of the court, as in suits originally instituted in the said court, and when rendered, if not set aside by the court, shall be certified to the commissioners, and shall ascertain the amount of any such claim, and such creditor or creditors shall be considered in all respects as having proved their debts under the commission.

SEC. 59. *And be it further enacted*, That the lands and effects of any person becoming bankrupt may be sold on such credit, and on such security, as a major part in value of the creditors may direct: *Provided*, nothing herein contained shall be allowed so to operate, as to retard the granting the bankrupt's certificate.

SEC. 60. *And be it further enacted*, That if any person becoming bankrupt shall be in prison, it shall be lawful for any creditor or creditors, at whose suit he or she shall be in execution, to discharge him or her from custody, or if such creditor or creditors shall refuse to do so, the prisoner may petition the commissioners, to liberate him or her, and thereupon, if, in the opinion of the commissioners, the conduct of such bankrupt shall have been fair, so as to entitle him or her in their opinion, to a certificate, when by law such certificate might be given, it shall be lawful for them to direct the discharge of such prisoner, and to enter the same in their books, which being notified to the keeper of the jail in which such prisoner may be confined, shall be a sufficient authority for his or her discharge: *Provided*, That in either case, such discharge shall be no bar to another execution, if a certificate shall be refused to such bankrupt: *And provided also*, that it shall be no bar to a subsequent imprisonment of such bankrupt by order of the commissioners, in conformity with the provisions of this act.

SEC. 61. *And be it further enacted*, That this act shall not repeal or annul, or be construed to repeal or annul, the laws of any State now in force,

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or which may be hereafter enacted, for the relief of insolvent debtors, except so far as the same may respect persons who are, or may be, clearly within the purview of this act, and whose debts shall amount, in the cases specified in the second section thereof, to the sums therein mentioned. And if any person within the purview of this act, shall be imprisoned for the space of three months, for any debt, or upon any contract, unless the creditors of such prisoner shall proceed to prosecute a commission of bankruptcy against him or her, agreeably to the provisions of this act, such debtor may and shall be entitled to relief, under any such laws for the relief of insolvent debtors, this act notwithstanding.

SEC. 62. *And be it further enacted,* That nothing contained in this law shall, in any manner, affect the right of preference to prior satisfaction of debts due to the United States, as secured or provided by any law heretofore passed, nor shall be construed to lessen or impair any right to, or security for, money due to the United States, or to any of them.

SEC. 63. *And be it further enacted,* That nothing contained in this act shall be taken or construed to invalidate or impair any lien, existing at the date of this act, upon the lands or chattels of any person who may have become a bankrupt.

SEC. 64. *And be it further enacted,* That this act shall continue in force during the term of five years, and from thence to the end of the next session of Congress thereafter, and no longer: *Provided,* that the expiration of this act shall not prevent the complete execution of any commission which may have been previously thereto issued.

Approved, April 4, 1800.

An Act to allow a drawback of duties on goods exported to New Orleans, and therein to amend the act entitled "An act to regulate the collection of duties on imports and tonnage."

Be it enacted, &c., That any goods, wares, or merchandise, which shall be exported from the United States, after the tenth day of April current, in the manner prescribed by law, to the port of New Orleans, on the river Mississippi, shall be deemed and taken to be entitled to such drawbacks of duties as would be allowable thereon when exported to any other foreign port or place, anything in the act entitled "An act to regulate the collection of duties on imports and tonnage," to the contrary hereof notwithstanding.

Approved, April 5, 1800.

An Act to continue in force "An act concerning certain fisheries of the United States, and for the regulation and government of the fishermen employed therein," and for other purposes therein mentioned.

Be it enacted, &c., That the act entitled "An act concerning certain fisheries of the United States, and for the regulation and government of the fishermen employed therein," shall be in force, and is hereby continued, for the term of ten years, from the third day of March, one thousand eight

hundred, and until the end of the session of Congress next ensuing the expiration of that term, any thing in the ninth section of the said act to the contrary hereof notwithstanding.

SEC. 2. *And be it further enacted,* That the additional allowances which were, by the sixth section of the act, entitled "An act for raising a further sum of money for the protection of the frontiers, and for other purposes therein mentioned," and by the second section of the act, entitled "An act laying an additional duty on salt, and for other purposes," respectively granted to ships or vessels employed in the bank and other cod fisheries, shall be continued to the ships and vessels, respectively, which shall be so employed, in the terms and according to the intent of the said first mentioned act, for and during the further continuance thereof, as aforesaid: *Provided,* That the said allowances shall not be understood to be continued for a longer time than the correspondent duties, respectively, for which the said additional allowances were granted, shall be payable.

Approved, April 12, 1800.

An Act to alter the form of certain oaths and affirmations directed to be taken by the act, entitled "An act providing for the second census or enumeration of the inhabitants of the United States."

Be it enacted, &c., That so much of the first section of the act passed during the present session of Congress, entitled "An act providing for the second census or enumeration of the inhabitants of the United States," as relates to the form of the oaths or affirmations thereby directed to be taken by the marshals, secretaries, and assistants, therein mentioned, respectively, shall be, and hereby is, repealed, and that the said oaths or affirmations shall be in the following form; that is to say, the marshals and secretaries' oath or affirmation in the form following: "I, A. B., marshal of the district of —, (or the secretary of the territory of —, as the case may be,) do solemnly swear, or affirm, that I will well and truly cause to be made a just and perfect enumeration and description of the persons resident within my district, (or within the territory of —, as the case may be,) and will return the same to the Secretary of State, agreeably to the directions of an act of Congress, entitled "An act providing for the second census or enumeration of the inhabitants of the United States," according to the best of my ability: and the assistants' oath or affirmation in the form following: I, A. B., do solemnly swear, or affirm, that I will make a just and perfect enumeration and description of all persons resident within the division assigned to me by the marshal of the district of —, (or the secretary of the territory of —, as the case may be,) and make due return thereof to the said marshal, or secretary, agreeably to the directions of an act of Congress, entitled "An act providing for the second census or enumeration of the inhabitants of the United States," according to the best of my ability.

Approved, April 12, 1800.

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An Act for the relief of the Corporation of Rhode Island College.

Be it enacted, &c., That the accounting officers of the Treasury be, and they are hereby, authorized and directed to liquidate and settle the claims of the Corporation of Rhode Island College, for compensation for the use and occupation of the edifice of the said college, and for injuries done to the same, from the tenth day of December, one thousand seven hundred and seventy-six, to the twentieth day of April, one thousand seven hundred and eighty, by the troops of the United States; and that the sum which may be found due to the said corporation, for damages done to and occupation of the said edifice, as aforesaid, be paid them out of any moneys in the Treasury not otherwise appropriated.

Approved, April 16, 1800.

An Act to extend the privilege of obtaining patents for useful discoveries and inventions to certain persons therein mentioned, and to enlarge and define the penalties for violating the rights of patentees.

Be it enacted, &c., That all and singular the rights and privileges given, intended, or provided, to citizens of the United States, respecting patents for new inventions, discoveries, and improvements, by the act, entitled "An act to promote the progress of useful arts, and to repeal the act heretofore made for that purpose," shall be, and hereby are, extended and given to all aliens who, at the time of petitioning in the manner prescribed by the said act, shall have resided for two years within the United States, which privileges shall be obtained, used, and enjoyed, by such persons, in as full and ample manner, and under the same conditions, limitations, and restrictions, as by the said act is provided and directed in the case of citizens of the United States: *Provided always,* That every person petitioning for a patent for any invention, art or discovery, pursuant to this act, shall make oath or affirmation, before some person duly authorized to administer oaths, before such patent shall be granted, that such invention, art, or discovery, hath not to the best of his or her knowledge or belief, been known or used either in this or any foreign country; and that every patent which shall be obtained pursuant to this act, for any invention, art, or discovery, which it shall afterwards appear had been known or used previous to such application for a patent, shall be utterly void.

SEC. 2. *And be it further enacted,* That where any person hath made, or shall have made, any new invention, discovery, or improvement, on account of which a patent might, by virtue of this or the above-mentioned act, be granted to such person, as shall die before any patent shall be granted therefor, the right of applying for and obtaining such patent, shall devolve on the legal representatives of such person in trust for the heirs at law of the deceased, in case he shall have died intestate; but if otherwise, then in trust for his devisees, in as full and ample manner, and under the same conditions, limitations, and re-

strictions, as the same was held or might have been claimed or enjoyed by such person, in his or her life time; and when application for a patent shall be made by such legal representatives, the oath or affirmation provided in the third section of the before-mentioned act, shall be so varied as to be applicable to them.

SEC. 3. *And be it further enacted,* That where any patent shall be, or shall have been, granted, pursuant to this or the above-mentioned act, and any person, without the consent of the patentee, his or her executors, administrators, or assigns, first obtained in writing, shall make, devise, use, or sell the thing whereof the exclusive right is secured to the said patentee by such patent, such person so offending shall forfeit and pay to the said patentee, his executors, administrators, or assigns, a sum equal to three times the actual damage sustained by such patentee, his executors, administrators, or assigns, from or by reason of such offence, which sum shall and may be recovered by action on the case founded on this and the abovementioned act, in the circuit court of the United States having jurisdiction thereof.

SEC. 4. *And be it further enacted,* That the fifth section of the abovementioned act, entitled "An act to promote the progress of useful arts, and to repeal the act heretofore made for that purpose," shall be, and hereby is, repealed.

Approved, April 17, 1800.

An Act to fix the compensation of the Paymaster General, and Assistant to the Adjutant General.

Be it enacted, &c., That the Paymaster General of the Army of the United States shall receive one hundred and twenty dollars per month, with the rations and forage of a major, in full compensation for his services and travelling expenses, to be computed from the commencement of the time of his actual residence at the seat of Government; anything in the "Act for the better organizing of the troops of the United States, and for other purposes," to the contrary notwithstanding.

SEC. 2. *And be it further enacted,* That the pay of the Assistant of the Adjutant General, in addition to his pay and other emoluments in the line of the Army, shall be forty dollars per month, which shall be in full compensation for his extra services and travelling expenses, to be computed from the time of his entering upon actual service.

Approved, April 22, 1800.

An Act fixing the rank and pay of the commanding officer of the Corps of Marines.

Be it enacted, &c., That a lieutenant colonel commandant shall be appointed to command the corps of Marines, and shall be entitled to the same pay and emoluments as a lieutenant colonel in the Army of the United States, anything in the act for the establishing and organizing a Marine corps to the contrary notwithstanding; and that the office of Major of the said corps shall thereafter be abolished.

Approved, April 22, 1800.

Acts of Congress.

An Act to continue in force the act, entitled "An act to authorize the defence of the merchant vessels of the United States against French depredations."

Be it enacted, &c., That the act passed on the twenty-fifth day of June, one thousand seven hundred and ninety-eight, entitled "An act to authorize the defence of the merchant vessels of the United States against French depredations," excepting such parts of the said act as relate to salvage in cases of recapture, shall continue and be in force for and during the term of one year, and from thence to the end of the next session of Congress thereafter, and no longer.

Approved, April 22, 1800.

An Act to continue in force, for a limited time, an act, entitled "An act to prescribe the mode of taking evidence in cases of contested elections for members of the House of Representatives of the United States, and to compel the attendance of witnesses."

Be it enacted, &c., That an act passed on the twenty-third day of January, one thousand seven hundred and ninety-eight, entitled "An act to prescribe the mode of taking evidence in cases of contested elections for members of the House of Representatives of the United States, and to compel the attendance of witnesses," shall be and continue in force for the term of four years, and no longer.

Approved, April 22, 1800.

An Act supplementary to the act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers.

Be it enacted, &c., That, from and after the passing of this act, it shall be lawful for any military officer, who may have charge or custody of any person or persons, who may have been, or shall be, apprehended in the Indian country, over and beyond the boundary line between the United States and the said Indian tribes, in violation of any of the provisions or regulations of the act, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," to conduct him or them to some one of the justices of the inferior or county court of any county nearest to the place of his arrest, who, if the offence is bailable, is hereby authorized to take proper bail, if offered, in like manner as the judge of the superior court of any State is authorized to do, in and by the act above recited; unless such person, holden in custody as aforesaid, shall be charged upon oath with murder, or any other offence punishable with death, in which case such justice of any inferior or county court shall not have authority to take bail for such person.

Approved, April 22, 1800.

An Act to establish a General Stamp Office.

Be it enacted, &c., That there shall be appointed an officer, to be denominated Superintendent of Stamps, whose duty it shall be to superintend the stamping and marking of all vellum, parchment, and paper; to distribute the same among

the officers who are, or shall be, authorized to secure and collect the duties thereupon, and to keep fair and true records and accounts of his proceedings; which said officer, so to be appointed, shall be subject to the superintendence, control, and direction of the Treasury Department, according to the respective authorities and duties of the officers thereof; and shall, for the better execution of the duties and trusts in him reposed, observe and execute such directions as he shall, from time to time, receive from said department.

SEC. 2. *And be it further enacted,* That the said superintendent shall hold his office at the seat of the Government of the United States, and shall be allowed, as a compensation for his services, the sum of two thousand dollars, annually, to be paid quarter-yearly at the Treasury of the United States; and shall also be allowed the necessary expenses of office rent, fuel, printing, and packing, and of procuring books and stationery for the use of his office, and that all letters and packages to and from him shall be free of postage.

SEC. 3. *And be it further enacted,* That the said superintendent shall, with the approbation of the principal officer of the Treasury Department, employ such number of clerks and other assistants in his office as shall be found necessary; and shall apportion and vary the compensation to each, in such manner as the services rendered by each shall in his judgment require: *Provided,* That the whole amount of the compensations to said clerks and assistants shall not exceed two thousand five hundred dollars annually.

SEC. 4. *And be it further enacted,* That the said superintendent shall, within three months after entering upon his office, give bond, with sureties, for the true and faithful execution thereof, and for the settlement of his accounts at the periods which shall be prescribed by the proper officers at the Treasury Department, in the sum of ten thousand dollars, which bond shall be approved by the Comptroller of the Treasury, and kept in his office, to be by him put in suit for the benefit of the United States, upon any breach of the conditions thereof.

SEC. 5. *And be it further enacted,* That from and after the establishment of the office aforesaid at the seat of Government, and after six months' notice of the new stamps hereby directed to be prepared and issued; which notice shall be given by the Secretary of the Treasury, in the manner directed by the tenth section of the act entitled "An act laying duties on stamped vellum, parchment, and paper;" so much of the act or acts, heretofore passed, as empower and require the supervisors of the revenue to stamp or mark any vellum, parchment, or paper, shall cease and determine.

SEC. 6. *And be it further enacted,* That if any deed, instrument, or writing, whatever, charged by law with the payment of duty, shall have been, or shall be, written or printed, by any person or persons whomsoever, upon vellum, parchment, or paper, not stamped or marked according to law, or upon vellum, parchment, or paper, stamped or marked at a lower rate of duty than is by law required for such deed, instrument, or writing; then, and in every such case, it shall be lawful for the

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person or persons holding such deed, instrument, or writing, within twelve calendar months after the time of giving notice as aforesaid, or within six calendar months after the execution of such deed, instrument, or writing, to pay to the collector of the revenue, within whose collection district such person or persons shall reside, the duty chargeable by law on such deed, instrument, or writing, together with ten dollars in addition to such duty, which duty and additional sum of ten dollars, such collector is hereby authorized and required to receive, and without fee or reward to endorse a receipt therefor, under his hand and seal, upon some part of such deed, instrument, or writing, which deed, instrument, or writing, so endorsed, it shall then be lawful for such person or persons to produce to the surveyor of the revenue within whose assessment district such person or persons shall reside, which surveyor thereupon shall certify under his hand and seal, and upon some part of the said deed, instrument, or writing, that the same so endorsed as aforesaid has been produced to him, and that the said endorsement is in his belief genuine; after which said endorsement and certificate, and not otherwise, such deed, instrument, or writing, shall be to all intents and purposes as valid and available, as if the same had been or were stamped, counter-stamped, or marked, as by law required, anything in any act to the contrary notwithstanding.

SEC. 7. *And be it further enacted*, That every collector of the revenue shall keep a separate account of all moneys by him received in manner last aforesaid, and shall, at such times as the Secretary of the Treasury shall direct, transmit the said account together with such moneys, and a memorandum of all receipts by him endorsed in manner aforesaid, to the supervisor of the district, or the inspector of the survey, as the case may be; and that every surveyor of the revenue shall, at such time as the Secretary of the Treasury shall direct, transmit to the said supervisor or inspector, as the case may be, a true copy of all certificates given by him as aforesaid, and of the receipts respectively certified, and thereupon such surveyor shall be entitled to receive from the supervisor or inspector fifty cents for every such certificate by him signed as aforesaid.

SEC. 8. *And be it further enacted*, That if any person, with intent to defraud the United States of any sum of moneys directed to be paid by this act, or of any of the duties or duty laid by the act, entitled "An act laying duties on stamped vellum, parchment, and paper," shall counterfeit or forge, or cause or procure to be counterfeited or forged, any of the certificates, receipts, or endorsements, provided for and directed by the sixth section of this act, or shall utter, pass away, vend, or offer in evidence, in any court of justice, any such forged or counterfeit receipt, certificate, or endorsement, knowing the same to be forged or counterfeit, then every such person so offending, and being thereof convicted in due form of law, shall be adjudged guilty of a misdemeanor, and shall be subject to be fined in any sum not exceeding one thousand dollars, and to be imprisoned for any term not exceeding seven years.

SEC. 9. *And for the convenience of those persons who may be inclined to have their own vellum, parchment, and paper, stamped or marked, Be it further enacted*, That when any person or persons shall deposit any vellum, parchment or paper, at the office of any supervisor, accompanying the same with a list, which shall specify the number and denomination of the stamps or marks which are to be thereto affixed, it shall be the duty of the said supervisor to transmit the same to the stamp-office at the seat of Government, where such paper, parchment, and vellum shall be properly marked or stamped, and forthwith sent back to the said supervisor, who shall thereupon collect the duties and deliver the vellum, parchment, and paper, pursuant to the order of the person from whom it was received.

SEC. 10. *And be it further enacted*, That all vellum, parchment, and paper, to be stamped or marked at the said office, shall, before it is delivered for sale, use, or distribution, be carried from the said office to the office of the commissioner of the revenue, and be there counter-stamped or marked, under the direction of the said commissioner, and in such manner as the Secretary of the Treasury shall devise and direct; and after being so counter-stamped, or marked, shall be returned to the office of the Superintendent of Stamps, to be by him distributed according to the true intent and meaning of this act; of all which vellum, parchment, and paper, so sent to be counter-stamped or marked, and so returned to the office of the superintendent aforesaid, an account shall be kept by the commissioner of the revenue, and from time to time returned to the proper officers of the Treasury Department.

SEC. 11. *And be it further enacted*, That if any person or persons, with intent to defraud the United States of any of the duties or duty laid by the act, entitled "An act laying duties on stamped vellum, parchment, and paper," or by any act or acts for amending the same, shall counterfeit or forge, or shall cause or procure to be counterfeited or forged, or shall knowingly or wilfully aid or assist in counterfeiting or forging any stamp, counter-stamp, or mark, which shall be provided or made in pursuance of this act, or shall counterfeit or resemble, or shall knowingly and wilfully aid or assist in counterfeiting or resembling, or shall cause to be counterfeited or resembled, the impression of any such stamp, counter-stamp, or mark, upon any vellum, parchment, or paper, or shall knowingly or wilfully utter, vend, or sell, or offer in evidence in any court of justice, any vellum, parchment, or paper, with such counterfeit mark or impression thereon, or shall privately or fraudulently use any stamp, counter-stamp, or mark, directed or allowed to be used by this act, then every such person so offending, and being thereof convicted in due form of law, shall be adjudged guilty of a misdemeanor, and be subject to be fined in any sum not exceeding one thousand dollars, and imprisoned for any time not exceeding seven years.

Approved, April 23, 1800.

Acts of Congress.

An Act to alter and to establish sundry Post Roads.

Be it enacted, &c., That the following post roads be discontinued, viz: From Washington, to Petersburg, in Georgia; from Augusta, by Robinson's, at the White Ponds, and Gillet's Mills, to Coosawhatchie; from Charlotte, by Lincolnton, to Statesville, North Carolina; from Chester Court-house to Spartan Court-house; from Fayetteville, by Lumberton, to Cheraw Court-house; from Moffat's store to Danville; from Culpepper Court-house, to Orange Court-house; from Leesburg, to Fauquier Court-house; from Tappahannock, by Richmond Court-house, and Westmoreland Court-house, to Kinsale; from Prince Edward Court-house, to Lynchburg; from Easton, by New Market, to Vienna; from Allen's Fresh, by Hoe's Ferry, to Port Conway; from Bladensburg, to Upper Marlborough; from Harrisburg, by Petersburg, Millerstown, Thompsonstown, Mifflintown, Lewistown, Huntingdon, Alexandria, Center Furnace, Bellefont, Milesburg, Aaronsburg, Mifflinsburg, Lewisburgh, Northumberland and Sunbury, to Harrisburg; from Easton, to Sussex Court-house; from New Brunswick to New Germantown; from Washington, in Pennsylvania, to Wheeling, in Virginia; from Old Fort Schuyler, by Cincinnati, to Oxford; from Vergennes, by Bason Harbaur, to Plattsburgh; from Rome to Rotterdam; from Boston, by Taunton, to New Bedford; from Camden, by Lancaster, South Carolina, Charlotte, North Carolina, and Lincolnton, to Statesville, North Carolina; from Fayetteville, to Pittsburg, in Chatham county; from Halifax Court-house, Virginia, by Danville, to Caswell Court-house; from Liberty, by Rocky Mount, to Martinville; from Louisburg, by Nash Court-house, to Tarborough; from Newbern, by Beaufort and Swansborough, to Newbern; from Ruthersfordton to Spartanburg; from Springfield, Massachusetts, to Northampton; from Standish, in Maine, by Flint's town, and Fryberg, to Conway, Tamworth, and Sandwich, in New Hampshire; from Suffolk, by South Quay, to Murfreesborough; from Wilmington, North Carolina, to Georgetown, South Carolina; from Petersburg, by Sussex Court-house, and Southampton Court-house, to South Quay.

SEC. 2. *And be it further enacted,* That the following be established as post roads, viz:

In Georgia—From Augusta, to Petersburg, by Lincoln Court-house; from Franklin Court-house to Jackson Court-house; from Georgetown to Warrenton; from Louisville to Saundersville; from Washington, to Oglethorpe Court-house.

In South Carolina—From Augusta, Georgia, by the Three Runs, to Coosawatchie; the post road from Edgefield Court-house, to Augusta, shall pass through Campbelltown; from Georgetown, by Willtown, Greenville, and Chatham, to Richmond Court-house, North Carolina; from Statesburg, by Salem Court-house, and Kingstree, to Willtown; from Columbia to Clarendon Court-house; from Chester Court-house, by York Court-house, Pinckneyville, and Union Court-house, to Spartanburg.

In North Carolina—From Washington to Bath,

and from thence by Woodstock, to Hyde Court-house; from Fayetteville, by M'Fall's, and Winfield's, to Cheraw Court-house, South Carolina; from Fayetteville, by Lumberton and Barefield's Mill, to Willtown, South Carolina; from Lumberton, by Elizabethtown, to the house of John Andrews, or William H. Beaty, on South River; from Fayetteville to Wilmington; from Charlotte, by Lincolnton, and Morganton, Buncomb Court-house, the Warm Springs, and thence to Greenville, in Tennessee; the post road from Salem, to Salisbury, shall pass through Lexington; the post road from Raleigh, to Newbern, shall pass through the county of Davie; the post road from Moore Court-house to Salisbury, to pass by the new or old Court-house of Randolph, as may be found most eligible; from Rockford, to Grayson Court-house, Virginia.

In Tennessee—From Knoxville to Marysville; from Sullivan Court-house, by Hawkins Court-house, and Orr's tavern, to Knoxville; from Nashville, by Robertson Court-house, and Montgomery Court-house, to Palmyra; from Nashville, to Natchez, in the Mississippi Territory; the post road which now passes from Abingdon, in Virginia, to Knoxville, in Tennessee, shall hereafter pass by Sullivan Court-house, Jonesborough, Greenville. Cheek's cross roads, and Jefferson Court-house.

In Kentucky—From Frankfort, by Versailles, and Richmond, to Orr's tavern, Tennessee; from Danville, by Standford, to Lancaster; from Frankfort, by Clarke Court-house, Montgomery Court-house, and Fleming Court-house, to Washington; from Frankfort, by Scott Court-house, Harrison Court-house, Pendleton Court-house, and Campbell Court-house, to Cincinnati, Northwestern Territory; from Frankfort, by Shelbyville, Bardstown, Hardin Court-house, and Logan Court-house, to Robinson Court-house, in Tennessee; the post road from Washington, in Cincinnati, shall pass by Bracken Court-house; the post road from Beardstown, to Louisville, shall pass through Shepherdsville; from Logan Court-house, by Christiana Court-house, Livingston Court-house, Henderson Court-house, to Muhlenberg Court-house; and from Logan Court-house, by Warren Court-house, and Barren Court-house, to Green Court-house.

In the Northwestern Territory—From Washington, Kentucky, by Manchester, in Northwestern Territory, to Chillicothe; from Louisville, Kentucky, to Vincennes; from Zanes, on the Muskingum, to Marietta.

In Virginia—From Culpeper Court-house, by Madison Court-house, to Orange Court-house; from Fredericksburg, by Spotsylvania Court-house, and Louisa Court-house, to Columbia; from Fredericksburg, by King George Court-house, Mattox bridge, Leedstown, Westmoreland Court-house on Templeman's cross-roads, Richmond Court-house, and Farnham, to Kinsale; from Fredericksburg, by Rogers's mills, Child's store, Chesterfield, Oxford, and Crew's store, to Goochland Court-house; from King and Queen Court-house, to Shackleford's store; from Gloucester

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Court-house, to Matthews Court-house; from Moorfields, by Franklin, to Bath Court-house; from Richmond, by Coles's, in Chesterfield county, Janetoe bridge, Amelia Court-house, Pridesville, and Ligontown, to Jamestown; from Petersburg, by Amelia Court-house, Nottaway Court-house, Bibb's ferry, on Staunton river, to Halifax Court-house; from Alexandria, by Centreville, Middleburg, Paris, and Millwood, to Winchester; from Cartersville, by New Canton, Buckingham Court-house, and Bent Creek, to Lynchburg; from Romney, by Springfield and Frankfort, to Cumberland, in Maryland; from Centerville, by the Red House, to Fauquier Court-house; from Washington, Pennsylvania, by Charlestown or Brooke Court-house, in Virginia, to Wheeling; the post road from Alexandria to Leesburg, shall pass through Matildaville; and the post road from Leesburg, to Shepherdstown, shall pass through Charlestown, in the county of Berkley; the post road from Sweetspring, to Greenbrier Court-house, shall pass by Monroe Court-house; from Greenbrier Court-house, to Kanawha Court-house; from Lexington, direct to Cabellsburg; from Mecklenburg Court-house, the mail shall return by Christian's store, at Cox's, to Lunenburg Court-house, and Edmond's store, to Gholson's.

In Maryland—From Baltimore, by Reisters-town, Westminster, Taneytown, and Emmitsburg, to Fairfield, Pennsylvania; from Baltimore, by Libertytown, to Fredericktown; and from Fredericktown, by Harper's Ferry, to Charlestown, in Berkeley county, Virginia; from Port Tobacco, by the Top of the Hill, to Nanjemoy; from Leonardtown, by the Great Mill, to the Ridge; from Washington, to Upper Marlborough; from Washington, by Queen Ann, to Annapolis; from Easton, by Cambridge and New Market, to Vienna; from Easton, by Hillsborough, Denton, and Greenborough, to Whitelysburg.

In Pennsylvania—From Lancaster, by Elizabethtown, and Middletown, to Harrisburgh, Sunbury, and Northumberland; from Lancaster, to New Holland; from Harrisburgh, by Clark's ferry, Millerstown, Thompsonstown, Mifflintown, Lewistown, and Huntingdon, to Alexandria; from Lewistown, by Mifflintown, Aaronsburg, Milesburg, and Bellefont, to Center Furnace; from Lewistown, by Muncey, and Milton, to Williamsport; from Northumberland, to Berwick, and thence by Catawassee, to Northumberland; from Wilkesbarre, by Wyalusing, to Athens; from Union, to New Geneva; from Pittsburg, by Franklin, Meadsville, and Le Beuf, to Presqu'isle; from Washington, to Waynesburg.

In New York—From Hudson, by Katskill, Harpersfield, Ouliot, Unadilla, and Union, to Athens, Pennsylvania; from Athens, Pennsylvania, by Newtown, Painted Post, and Bath, to Canandaraqua; from Utica, by New Hartford, Hamilton, and Sherbourne, to Oxford; from Cooperstown, on the State road, to Scipio; from Vergennes, Vermont, by Charlotte, Vermont, and Peru, to Plattsburg.

In New Jersey—From Easton, Pennsylvania, by Belvidere, and Johnsonburg, to Newtown;

from New Brunswick, by Somerset Court-house, and Pluckemin, to New Germanton; from Trenton, by Bordentown, Slabtown, Mount Holly, Moorestown, and Haddenfield, to Philadelphia.

In Connecticut—From Fairfield, by Trumbull, Huntington, Newtown, and Brookfield, to New Milford.

In Massachusetts—From Boston, by Bridgewater, and Taunton, to New Bedford; from New Bedford, by Rochester, and Wareham, to Sandwich; from Hanover, by Scituate, Marshfield, and Duxbury, to Kingston; from Truro to Provincetown; from Billerica, by Patucket bridge, to Dracut, and Hovey's tavern, to Pelham, and Nottingham West, in New Hampshire; from Concord, by Groton, New Ipswich, and Jaffray, to Marlborough, New Hampshire.

In Vermont—From Westminster, by Bellows Falls, through Rockingham, Chester, and Cavendish, to Rutland; from Newbury to Danville; from Burlington, through St. Alban's, to Hye-gate.

In New Hampshire—From Exeter, by Nottingham, to Concord; from Salisbury, through Grafton, to Hanover.

In Maine—From Portland, by Windham, Watertford, Buckfield, and Turner, to Portland; from Bucktown to Edenton.

SEC. 3. *And be it further enacted*, That nothing contained in this act shall be construed so as to affect any existing contracts for carrying the mail.

Approved, April 23, 1800.

An Act for the better government of the Navy of the United States.

Be it enacted, &c., That from and after the first day of June next, the following rules and regulations be adopted and put in force, for the government of the navy of the United States.

ART. 1. The commanders of all ships and vessels of war belonging to the navy, are strictly enjoined and required to show in themselves a good example of virtue, honor, patriotism, and subordination; and be vigilant in inspecting the conduct of all such as are placed under their command; and to guard against, and suppress, all dissolute and immoral practices, and to correct all such as are guilty of them, according to the usage of the sea service.

ART. 2. The commanders of all ships and vessels in the navy, having chaplains on board, shall take care that divine service be performed in a solemn, orderly, and reverent manner twice a day, and a sermon preached on Sunday, unless bad weather, or other extraordinary accidents prevent it; and that they cause all, or as many of the ship's company as can be spared from duty, to attend at every performance of the worship of Almighty God.

ART. 3. Any officer, or other person in the navy, who shall be guilty of oppression, cruelty, fraud, profane swearing, drunkenness, or any other scandalous conduct, tending to the destruction of good morals, shall, if an officer, be cashiered, or suffer such other punishment as a court-martial shall adjudge; if a private, shall be put in irons,

or flogged, at the discretion of the captain, not exceeding twelve lashes; but if the offence require severer punishment, he shall be tried by a court-martial, and suffer such punishment as said court shall inflict.

ART. 4. Every commander or other officer who shall, upon signal for battle, or on the probability of an engagement, neglect to clear his ship for action, or shall not use his utmost exertions to bring his ship to battle, or shall fail to encourage, in his own person, his inferior officers and men to fight courageously, such offender shall suffer death, or such other punishment as a court martial shall adjudge; or any officer neglecting, on sight of any vessel or vessels of an enemy, to clear his ship for action, shall suffer such punishment as a court martial shall adjudge: and if any person in the navy shall treacherously yield, or pusillanimously cry for quarters, he shall suffer death, on conviction thereof, by a general court martial.

ART. 5. Every officer or private who shall not properly observe the orders of his commanding officer, or shall not use his utmost exertions to carry them into execution, when ordered to prepare for, join in, or when actually engaged in battle; or shall, at such time, basely desert his duty or station, either then, or while in sight of an enemy, or shall induce others to do so, every person so offending shall, on conviction thereof by a general court martial, suffer death or such other punishment as the said court shall adjudge.

ART. 6. Every officer or private who shall, through cowardice, negligence, or disaffection in time of action, withdraw from, or keep out of battle, or shall not do his utmost to take or destroy every vessel which it is his duty to encounter, or shall not do his utmost endeavor to afford relief to ships belonging to the United States, every such offender shall, on conviction thereof by a general court martial, suffer death, or such other punishment as the said court shall adjudge.

ART. 7. The commanding officer of every ship or vessel in the navy, who shall capture or seize upon any vessel as a prize, shall carefully preserve all the papers and writings found on board, and transmit the whole of the originals un mutilated to the judge of the district to which such prize is ordered to proceed, and shall transmit to the Navy Department, and to the agent appointed to pay the prize money, complete lists of the officers and men entitled to a share of the capture, inserting therein the quality of every person rating, on pain of forfeiting his whole share of the prize money resulting from such capture, and suffering such further punishment as a court martial shall adjudge.

ART. 8. No person in the navy shall take out of a prize, or vessel seized as a prize, any money, plate, goods, or any part of her rigging, unless it be for the better preservation thereof, or absolutely necessary for the use of any of the vessels of the United States, before the same shall be adjudged lawful prize by a competent court; but the whole, without fraud, concealment, or embezzlement, shall be brought in and judgment passed thereon, upon pain that every person offending herein shall for-

feit his share of the capture, and suffer such further punishment as a court martial, or the court of admiralty in which the prize is adjudged, shall impose.

ART. 9. No person in the navy shall strip of their clothes, or pillage, or in any manner maltreat persons taken on board a prize, on pain of such punishment as a court martial shall adjudge.

ART. 10. No person in the navy shall give, hold, or entertain any intercourse or intelligence to or with any enemy or rebel, without leave from the President of the United States, the Secretary of the Navy, the commander-in-chief of the fleet, or the commander of a squadron; or, in case of a vessel acting singly, from his commanding officer, on pain of death, or such other punishment as a court martial shall adjudge.

ART. 11. If any letter or message from an enemy or rebel, be conveyed to any officer or private of the navy, and he shall not, within twelve hours, make the same known, having opportunity so to do, to his superior or commanding officer; or if any officer commanding a ship or vessel, being acquainted therewith, shall not, with all convenient speed, reveal the same to the commander-in-chief of the fleet, commander of a squadron, or other proper officer whose duty it may be to take cognizance thereof, every such offender shall suffer death, or such other punishment as a court martial shall adjudge.

ART. 12. Spies, and all persons who shall come or be found in the capacity of spies, or who shall bring or deliver any seducing letter or message from an enemy or rebel, or endeavor to corrupt any person in the navy to betray his trust, shall suffer death, or such other punishment as a court martial shall adjudge.

ART. 13. If any person in the navy shall make or attempt to make any mutinous assembly, he shall, on conviction thereof by a court martial, suffer death; and if any person as aforesaid shall utter any seditious or mutinous words, or shall conceal or connive at any mutinous or seditious practices, or shall treat with contempt his superior, being in the execution of his office; or, being witness to any mutiny or sedition, should not do his utmost to suppress it, he shall be punished at the discretion of a court martial.

ART. 14. No officer or private in the navy shall disobey the lawful orders of his superior officer, or strike him, or draw, or offer to draw, or raise any weapon against him, while in the execution of the duties of his office, on pain of death, or such other punishment as a court martial shall inflict.

ART. 15. No person in the navy shall quarrel with any other person in the navy, nor use provoking or reproachful words, gestures, or menaces, on pain of such punishment as a court martial shall adjudge.

ART. 16. If any person in the navy shall desert to an enemy, or rebel, he shall suffer death.

ART. 17. If any person in the navy shall desert, or shall entice others to desert, he shall suffer death, or such other punishment as a court martial shall adjudge; and if any officer, or other person belonging to the navy, shall receive or entertain any

deserter from any other vessel of the navy, knowing him to be such, and shall not, with all convenient speed, give notice of such deserter to the commander of the vessel to which he belongs, or to the commander-in-chief, or to the commander of the squadron, he shall, on conviction thereof, be cashiered, or be punished at the discretion of a court martial. All offences committed by persons belonging to the navy while on shore, shall be punished in the same manner as if they had been committed at sea.

ART. 18. If any person in the navy shall knowingly make or sign, or shall aid, abet, direct, or procure the making or signing of any false muster, or shall execute, or attempt, or countenance any fraud against the United States, he shall, on conviction, be cashiered, and rendered forever incapable of any future employment in the service of the United States, and shall forfeit all the pay and subsistence due him, and suffer such other punishment as a court martial shall inflict.

ART. 19. If any officer, or other person in the navy, shall, through inattention, negligence, or any other fault, suffer any vessel of the navy to be stranded, or run upon rocks or shoals, or hazarded, he shall suffer such punishment as a court martial shall adjudge.

ART. 20. If any person in the navy shall sleep upon his watch, or negligently perform the duty assigned him, or leave his station before regularly relieved, he shall suffer death, or such punishment as a court martial shall adjudge; or, if the offender be a private, he may, at the discretion of the captain, be put in irons, or flogged, not exceeding twelve lashes.

ART. 21. The crime of murder, when committed by any officer, seaman, or marine, belonging to any public ship or vessel of the United States, without the territorial jurisdiction of the same, may be punished with death by the sentence of a court martial.

ART. 22. The officers and privates of every ship or vessel, appointed as convoy to merchant or other vessels, shall diligently and faithfully discharge the duties of their appointment, nor shall they demand or exact any compensation for their services, nor maltreat any of the officers or crews of such merchant or other vessels, on pain of making such reparation as a court of admiralty may award, and of suffering such further punishment as a court martial shall adjudge.

ART. 23. If any commander or other officer shall receive or permit to be received, on board his vessel, any goods or merchandise, other than for the sole use of his vessel, except gold, silver, or jewels, and except the goods or merchandise of vessels which may be in distress, or shipwrecked, or in imminent danger of being shipwrecked, in order to preserve them for their owner, without orders from the President of the United States or the Navy Department, he shall, on conviction thereof, be cashiered, and be incapacitated forever afterwards, for any place or office in the navy.

ART. 24. If any person in the navy shall waste, embezzle, or fraudulently buy, sell, or receive any

ammunition, provisions, or other public stores; or if any officer or other person shall, knowingly, permit, through design, negligence, or inattention, any such waste, embezzlement, sale or receipt, every such person shall forfeit all the pay and subsistence then due him, and suffer such other punishment as a court martial shall direct.

ART. 25. If any person in the navy shall unlawfully set fire to, or burn, any kind of public property, not then in the possession of an enemy, pirate, or rebel, he shall suffer death: And if any person shall, in any other manner, destroy such property, or shall not use his best exertions to prevent the destruction thereof by others, he shall be punished at the discretion of a court martial.

ART. 26. Any theft not exceeding twenty dollars may be punished at the discretion of the captain, and above that sum, as a court martial shall direct.

ART. 27. If any person in the navy shall, when on shore, plunder, abuse, or maltreat, any inhabitant, or injure his property in any way, he shall suffer such punishment as a court martial shall adjudge.

ART. 28. Every person in the navy shall use his utmost exertions to detect, apprehend, and bring to punishment, all offenders, and shall at all times aid and assist all persons appointed for this purpose, on pain of such punishment as a court martial shall adjudge.

ART. 29. Each commanding officer shall, whenever a seaman enters on board, cause an accurate entry to be made in the ship's books, of his name, time, and term of service; and, before sailing, transmit to the Secretary of the Navy a complete list or muster roll of the officers and men under his command, with the date of their entering, time and terms of their service, annexed; and shall cause similar lists to be made out on the first day of every second month, to be transmitted to the Secretary of the Navy, as opportunities shall occur; accounting, in such lists or muster rolls, for any casualties which may have taken place since the last list or muster roll. He shall cause to be accurately minuted, on the ship's books, the names of, and times at which any death or desertion may occur; and in case of death, shall take care that the purser secure all the property of the deceased for the benefit of his legal representative or representatives. He shall cause frequent inspections to be made into the condition of the provision, and use every precaution for its preservation. He shall, whenever he orders officers and men to take charge of a prize, and proceed to the United States, and whenever officers and men are sent from his ship for whatever cause, take care that each man be furnished with a complete statement of his account, specifying the date of his enlistment, and the period and terms of his service; which account shall be signed by the commanding officer and purser. He shall cause the rules for the government of the navy to be hung up in some public part of the ship, and read once a month to his ship's company. He shall cause a convenient place to be set apart for sick or disabled men, to which he shall have them removed, with their

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hammocks and bedding, when the surgeon shall so advise, and shall direct that some of the crew attend them and keep the place clean; and, if necessary, shall direct that cradles, and buckets with covers, be made for their use: And when his crew is finally paid off, he shall attend in person, or appoint a proper officer, to see that justice be done to the men, and to the United States, in the settlement of the accounts: Any commanding officer offending herein, shall be punished at the discretion of a court martial.

ART. 30. No commanding officer shall, of his own authority, discharge a commissioned or warrant officer, nor strike, nor punish him otherwise than by suspension or confinement, nor shall he, of his own authority, inflict a punishment on any private beyond twelve lashes with a cat-of-nine tails, nor shall he suffer any wired, or other than a plain, cat-of-nine tails, to be used on board his ship; nor shall any officer who may command by accident, or in the absence of the commanding officer (except such commander be absent for a time by leave) order or inflict any other punishment than confinement, for which he shall account on the return of such absent commanding officer. Nor shall any commanding officer receive on board any petty officers or men turned over from any other vessel to him, unless each of such officers and men produce to him an account, signed by the captain and purser of the vessel from which they came, specifying the date of such officer's or man's entry, the period and terms of service, the sums paid, and the balance due him, and the quality in which he was rated on board such ship. Nor shall any commanding officer, having received any petty officer or man as aforesaid, rate him in a lower or worse station than that in which he formerly served: Any commanding officer offending herein, shall be punished at the discretion of a court martial.

ART. 31. Any master-at-arms, or other person of whom the duty of master-at-arms is required, who shall refuse to receive such prisoners as shall be committed to his charge, or, having received them, shall suffer them to escape, or dismiss them without orders from proper authority, shall suffer in such prisoners' stead, or be punished otherwise, at the discretion of a court martial.

ART. 32. All crimes committed by persons belonging to the navy, which are not specified in the foregoing articles shall be punished according to the laws and customs in such cases at sea.

ART. 33. All officers not holding commissions or warrants, or who are not entitled to them, except such as are temporarily appointed to the duties of a commissioned or warrant officer, are deemed petty officers.

ART. 34. Any person entitled to wages or prize money, may have the same paid to his assignee, provided the assignment be attested by the captain and purser; and in case of the assignment of wages, the power shall specify the precise time they commence. But the commander of every vessel is required to discourage his crew from selling any part of their wages or prize money, and never to attest any power of attorney, until he is satisfied

that the same is not granted in consideration of money given for the purchase of wages or prize money.

NAVAL GENERAL COURTS MARTIAL.

ART. 35. General courts martial may be convened as often as the President of the United States, the Secretary of the Navy, or the commander-in-chief of the fleet, or commander of a squadron, while acting out of the United States, shall deem it necessary: *Provided*, That no general court martial shall consist of more than thirteen, nor less than five members; and as many officers shall be summoned on every such court as can be convened without injury to the service, so as not to exceed thirteen, and the senior officer shall always preside, the others ranking agreeably to the date of their commissions; and in no case, where it can be avoided without injury to the service, shall more than one-half the members, exclusive of the President, be junior to the officer to be tried.

ART. 36. Each member of the court, before proceeding to the trial, shall take the following oath, or affirmation, which the judge advocate, or person officiating as such, is hereby authorized to administer:

"I, A B, do swear (or affirm) that I will truly try, without prejudice or partiality, the case now depending, according to the evidence which shall come before the court, the rules for the government of the navy, and my own conscience; and that I will not by any means divulge or disclose the sentence of the court, until it shall have been approved by the proper authority, nor will I at any time divulge or disclose the vote or opinion of any particular member of the court, unless required so to do before a court of justice in due course of law."

This oath or affirmation being duly administered, the President is authorized and required to administer the following oath or affirmation to the judge advocate, or person officiating as such:

"I, A B, do swear (or affirm) that I will keep a true record of the evidence given to, and the proceedings of, this court; nor will I divulge or by any means disclose the sentence of the court until it shall have been approved by the proper authority; nor will I at any time divulge or disclose the vote or opinion of any particular member of the court, unless required so to do before a court of justice in due course of law."

ART. 37. All testimony given to a general court martial shall be on oath or affirmation, which the President of the court is hereby authorized to administer, and if any person shall refuse to give his evidence as aforesaid, or shall prevaricate, or shall behave with contempt to the court, it shall and may be lawful for the court to imprison such offender at their discretion; provided that the imprisonment in no case shall exceed two months: And every person who shall commit wilful perjury, on examination on oath or affirmation before such court, or who shall corruptly procure, or suborn any person to commit such wilful perjury, shall and may be prosecuted by indictment or in-

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formation in any court of justice of the United States, and shall suffer such penalties as are authorized by the laws of the United States in case of perjury or the subornation thereof. And in every prosecution for perjury or the subornation thereof, under this act, it shall be sufficient to set forth the offence charged on the defendant, without setting forth the authority by which the court was held, or the particular matters brought or intended to be brought before the said court.

ART. 38. All charges, on which an application for a general court martial is founded, shall be exhibited in writing to the proper officer, and the person demanding the court shall take care that the person accused be furnished with a true copy of the charges, with the specifications, at the time he is put under arrest, nor shall any other charge or charges, than those so exhibited, be urged against the person to be tried before the court, unless it appear to the court that intelligence of such charge had not reached the person demanding the court, when the person so to be tried was put under arrest, or that some witness material to the support of such charge, who was at that time absent, can be produced; in which case, reasonable time shall be given to the person to be tried to make his defence against such new charge. Every officer so arrested is to deliver up his sword to his commanding officer, and to confine himself to the limits assigned him, under pain of dismission from service.

ART. 39. When the proceedings of any general court martial shall have commenced, they shall not be suspended or delayed on account of the absence of any of the members, provided five or more be assembled; but the court is enjoined to sit from day to day, Sundays excepted, until sentence be given: And no member of the said court shall, after the proceedings are begun, absent himself therefrom, unless in case of sickness, or orders to go on duty from a superior officer, on pain of being cashiered.

ART. 40. Whenever a court martial shall sentence any officer to be suspended, the court shall have power to suspend his pay and emoluments for the whole, or any part of the time of his suspension.

ART. 41. All sentences of courts martial, which shall extend to the loss of life, shall require the concurrence of two thirds of the members present; and no such sentence shall be carried into execution, until confirmed by the President of the United States; or, if the trial take place out of the United States, until it be confirmed by the commander of the fleet or squadron: All other sentences may be determined by a majority of votes, and carried into execution on confirmation of the commander of the fleet, or officer ordering the court, except such as go to the dismission of a commissioned or warrant officer, which are first to be approved by the President of the United States.

A court martial shall not, for any one offence not capital, inflict a punishment beyond one hundred lashes.

ART. 42. The President of the United States,

or, when the trial takes place out of the United States, the commander of the fleet or squadron, shall possess full power to pardon any offence committed against these articles, after conviction, or to mitigate the punishment decreed by a court martial.

SEC. 2. ARTICLE 1. *And be it further enacted*, That courts of inquiry may be ordered by the President of the United States, the Secretary of the Navy, or the commander of a fleet or squadron, provided such court shall consist of not more than three members who shall be commissioned officers, and a judge advocate, or person to do duty as such; and such courts shall have power to summon witnesses, administer oaths, and punish contempt, in the same manner as courts martial. But such court shall merely state facts, and not give their opinion, unless expressly required so to do in the order for convening; and the party, whose conduct shall be the subject of inquiry, shall have permission to cross-examine all the witnesses.

ART. 2. The proceedings of courts of inquiry shall be authenticated by the signature of the president of the court and judge advocate, and shall in all cases not capital, or extending to the dismission of a commissioned or warrant officer, be evidence before a court martial, provided oral testimony cannot be obtained.

ART. 3. The judge advocate, or person officiating as such, shall administer to the members the following oath or affirmation:

"You do swear (or affirm) well and truly to examine and inquire, according to the evidence, into the matter now before you, without partiality or prejudice."

After which, the president shall administer to the judge advocate, or person officiating as such, the following oath or affirmation:

"You do swear (or affirm) truly to record the proceedings of this court, and the evidence to be given in the case in hearing."

SEC. 3. *And be it further enacted*, That in all cases, where the crews of the ships or vessels of the United States shall be separated from their vessels, by the latter being wrecked, lost, or destroyed, all the command, power, and authority, given to the officers of such ships or vessels, shall remain and be in full force, as effectually as if such ship or vessel were not so wrecked, lost, or destroyed, until such ship's company be regularly discharged from, or ordered again into, the service, or until a court martial shall be held to inquire into the loss of such ship or vessel; and if by the sentence of such court, or other satisfactory evidence, it shall appear that all or any of the officers and men of such ship's company did their utmost to preserve her, and after the loss thereof behaved themselves agreeably to the discipline of the navy, then the pay and emoluments of such officers and men, or such of them as shall have done their duty as aforesaid, shall go on until their discharge or death; and every officer or private who shall, after the loss of such vessel, act contrary to the discipline of the navy, shall be punished at the discretion of a court martial, in the same manner as if such vessel had not been so lost.

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SEC. 4. *And be it further enacted*, That all the pay and emoluments of such officers and men, of any of the ships or vessels of the United States, taken by an enemy, who shall appear by the sentence of a court martial, or otherwise, to have done their utmost to preserve and defend their ship or vessel, and, after the taking thereof, have behaved themselves obediently to their superiors, agreeably to the discipline of the navy, shall go on and be paid them until their death, exchange, or discharge.

SEC. 5. *And be it further enacted*, That the proceeds of all ships and vessels, and the goods taken on board of them, which shall be adjudged good prize, shall, when of equal or superior force to the vessel or vessels making the capture, be the sole property of the captors; and when of inferior force, shall be divided equally between the United States and the officers and men making the capture.

SEC. 6. *And be it enacted*, That the prize money belonging to the officers and men, shall be distributed in the following manner:

1. To the commanding officers of fleets, squadrons, or single ships, three-twentieths, of which the commanding officer of the fleet or squadron shall have one twentieth, if the prize be taken by a ship or vessel acting under his command, and the commander of single ships, two twentieths; but where the prize is taken by a ship acting independently of such superior officer, the three-twentieths shall belong to her commander.

2. To sea lieutenants, captains of marines, and sailing masters, two twentieths; but where there is a captain, without a lieutenant of marines, these officers shall be entitled to two-twentieths and one-third of a twentieth, which third, in such case, shall be deducted from the share of the officers mentioned in article No. 3, of this section.

3. To chaplains, lieutenants of marines, surgeons, pursers, boatswains, gunners, carpenters, and master's mates, two-twentieths.

4. To midshipmen, surgeon's mates, captain's mates, clerk, schoolmasters, boatswain's mates, gunner's mates, carpenter's mates, ships' stewards, sailmakers, masters at arms, armorers, cockswains, and coopers, three-twentieths and an half.

5. To gunner's yeomen, boatswain's yeomen, quarter masters, quarter gunners, sailmaker's mates, sergeants and corporals of marines, drummers, fifers and extra petty officers, two-twentieths and an half.

6. To seamen, ordinary seamen, marines, and all other persons doing duty on board, seven-twentieths.

7. Whenever one or more public ships or vessels are in sight at the time any one or more ships are taking a prize or prizes, they shall all share equally in the prize or prizes, according to the number of men and guns on board each ship in sight.

No commander of a fleet or squadron shall be entitled to receive any share of prizes taken by vessels not under his immediate command; nor of such prizes as may have been taken by ships or vessels intended to be placed under his command, before they have acted under his immediate or-

ders; nor shall a commander of a fleet or squadron, leaving the station where he had the command, have any share in the prizes taken by ships left on such station, after he has gone out of the limits of his said command.

SEC. 7. *And be it further enacted*, That a bounty shall be paid by the United States, of twenty dollars for each person on board any ship of an enemy at the commencement of an engagement, which shall be sunk or destroyed by any ship or vessel belonging to the United States of equal or inferior force, the same to be divided among the officers and crew in the same manner as prize money.

SEC. 8. *And be it further enacted*, That every officer, seamen, or marine, disabled in the line of his duty, shall be entitled to receive for life, or during his disability, a pension from the United States, according to the nature and degree of his disability, not exceeding one-half his monthly pay.

SEC. 9. *And be it further enacted*, That all money accruing, or which has already accrued to the United States from the sale of prizes, shall be and remain for ever a fund for the payment of pensions and half pay, should the same be hereafter granted, to the officers and seamen who may be entitled to receive the same, and if the said fund shall be insufficient for the purpose, the public faith is hereby pledged to make up the deficiency; but if it should be more than sufficient, the surplus shall be applied to the making of further provision for the comfort of the disabled officers, seamen, and marines, and for such as, though not disabled, may merit by their bravery, or long and faithful services, the gratitude of their country.

SEC. 10. *And be it further enacted*, That the said fund shall be under the management and direction of the Secretary of the Navy, the Secretary of the Treasury, and the Secretary of War, for the time being, who are hereby authorized to receive any sums to which the United States may be entitled from the sale of prizes, and employ and invest the same, and the interest arising therefrom, in any manner which a majority of them may deem most advantageous: And it shall be the duty of the said commissioners to lay before Congress, annually, in the first week of their session, a minute statement of their proceedings relative to the management of said fund.

SEC. 11. *And be it further enacted*, That the act passed the second day of March, in the year one thousand seven hundred and ninety-nine, entitled "An act for the government of the navy of the United States," from and after the first day of June next, shall be, and hereby is, repealed.

Approved, April 23, 1800.

An Act respecting the Mint.

Be it enacted, &c., That a sum equal to the amount of the cents and half cents, which shall have been coined at the Mint, and delivered to the Treasurer of the United States, subsequent to the third day of March, in the year one thousand seven hundred and ninety-nine, shall be, and the same is hereby, appropriated for the purchase of copper, for the further coinage of cents and half

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cents; and that a sum equal to the amount of cents and half cents, which shall be hereafter coined at the Mint, and delivered to the Treasurer of the United States in any one year, shall be, and the same is hereby, appropriated for the annual purchase of copper, for the coinage of cents and half cents, which sums shall be payable out of any moneys in the Treasury not otherwise appropriated.

SEC. 2. *And be it further enacted*, That there shall be retained from every deposit in the Mint, of gold or silver bullion below the standard of the United States, such sum as shall be equivalent to the expense incurred in refining the same, and an accurate account of such expense on every such deposit shall be kept, and of the sums retained on account of the same, which shall be accounted for by the Treasurer of the Mint, with the Treasury of the United States.

Approved, April 24, 1800.

An Act to continue in force the act in addition to the act for the punishment of certain crimes against the United States.

Be it enacted, &c., That an act passed on the fifth day of June, one thousand seven hundred and ninety-four, entitled "An act in addition to the act for the punishment of certain crimes against the United States," and which by the tenth section thereof was limited to continue in force for and during the term of two years from passing the same, and from thence to the end of the next session of Congress thereafter, and no longer; and which said act was, by an act passed on the second day of March, one thousand seven hundred and ninety-seven, entitled "An act to continue in force for a limited time, the act in addition to the act for the punishment of certain crimes against the United States," further continued in force for two years from the said second day of March, one thousand seven hundred and ninety-seven, and from thence to the end of the next session of Congress thereafter, shall continue and be in force without limitation of time, anything in any act to the contrary notwithstanding.

Approved, April 24, 1800.

An Act to make further provision for the removal and accommodation of the Government of the United States.

Be it enacted, &c., That the President of the United States shall be, and hereby is, authorized and empowered to direct the various offices belonging to the Executive departments of the United States, to be removed to the City of Washington, at any time that he shall judge proper, after the adjournment of the present session of Congress, and before the time heretofore appointed by law for such removal.

SEC. 2. *And be it further enacted*, That for the purpose of providing furniture for the house erected in the City of Washington, for the accommodation of the President of the United States, a sum not exceeding fifteen thousand dollars be expended,

under the direction of the Heads of the several departments of State, of the Treasury, of War, and of the Navy.

SEC. 3. *And be it further enacted*, That for the suitable accommodation of Congress, at the City of Washington, the Secretaries of the four Executive departments, or any three of them, shall be, and hereby are, authorized and directed to cause suitable furniture to be forthwith provided for the apartments, which are to be occupied in the Capitol, at the said city, by the two Houses, respectively, and for the offices and committee rooms of each; and to cause the said apartments, offices, and committee rooms, to be furnished in a suitable manner, so as to be ready for the reception of Congress on the day fixed by law for the removal of the Government to the said city; and that for defraying the expenses incident to the furnishing of the said apartments, offices, and committee rooms, and to the removal of the books, papers, and records, belonging to the said offices, respectively, there shall be, and hereby is, appropriated a sum not exceeding nine thousand dollars.

SEC. 4. *And be it further enacted*, That for the greater convenience of the members of both Houses of Congress in attending their duty in the said City of Washington, and the greater facility of communication between the various Departments and offices of the Government, there shall be made footways in the said city, in suitable places and directions; and that the said footways shall be made by the commissioners of the said city, under the direction of the Secretaries of the four Executive departments of the United States, who, or any three of whom, shall forthwith take order therefor, and in such manner, at such places, and in such directions, as they or any three of them shall judge most proper for the purposes aforesaid, and shall appoint; and that if the said Secretaries, or any three of them, shall find, on examination, that there is not in the hands of the said commissioners a sum sufficient for making the said footways, over and above what may have been destined by the said commissioners, or may, in the opinion of the said Secretaries, or any three of them, be necessary for the accomplishment of other objects necessary for the accommodation of the Government, or its removal as aforesaid, then the said Secretaries, or any three of them, shall be, and hereby are, authorized and required to draw out of the Treasury of the United States, and apply to the purpose of making the said footways, any sum which may be necessary therefor, not exceeding ten thousand dollars; which sum is hereby appropriated for the said purpose. And all the lots in the City of Washington, now vested in the said commissioners, or in trustees, in any manner for the use of the United States, and now remaining unsold, excepting those set apart for public purposes, shall be, and are hereby, declared and made chargeable with the repayment of the said sum of ten thousand dollars, which shall be advanced in pursuance of this act, and the interest accruing thereon.

SEC. 5. *And be it further enacted*, That for the purchase of such books as may be necessary for

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the use of Congress at the said City of Washington, and for fitting up a suitable apartment for containing them and for placing them therein, the sum of five thousand dollars shall be, and hereby is, appropriated; and that the said purchase shall be made by the Secretary of the Senate and Clerk of the House of Representatives, pursuant to such directions as shall be given, and such catalogue as shall be furnished by a joint committee of both Houses of Congress to be appointed for that purpose; and that the said books shall be placed in one suitable apartment in the Capitol in the said city, for the use of both Houses of Congress and the members thereof, according to such regulations as the committee aforesaid shall devise and establish.

SEC. 6. *And be it further enacted*, That the several appropriations aforesaid shall be paid out of any moneys in the Treasury of the United States not otherwise appropriated.

Approved, April 24, 1800.

An Act to repeal the act laying duties on mills and implements employed in the manufacture of snuff.

Be it enacted, &c., That so much of the act, entitled "An act to alter and amend the act, entitled 'An act laying certain duties upon snuff and refined sugar,'" passed on the third day of March, one thousand seven hundred and ninety-five, as imposes a duty upon mills and implements employed in the manufacture of snuff, or allows a drawback upon the exportation of snuff manufactured within the United States, shall be, and the same hereby is repealed.

Approved, April 24, 1800.

An Act to authorize the President of the United States to accept, for the United States, a cession of jurisdiction of the territory west of Pennsylvania, commonly called the Western Reserve of Connecticut.

Be it enacted, &c., That the President of the United States be, and he hereby is, authorized to execute and deliver letters patent, in the name and behalf of the United States, to the Governor of the State of Connecticut, for the time being, for the use and benefit of the persons holding and claiming under the State of Connecticut, their heirs and assigns, forever, whereby all the right, title, interest, and estate, of the United States to the soil of that tract of land lying west of the west line of Pennsylvania, as claimed by the State of Pennsylvania, and as the same has been actually settled, ascertained, and run, in conformity to an agreement between the said State of Pennsylvania and the State of Virginia, and extending from said line westward one hundred and twenty statute miles in length, and in breadth throughout the said limits in length, from the completion of the forty-first degree of north latitude, until it comes to forty-two degrees and two minutes north latitude, including all that territory, commonly called the Western Reserve of Connecticut, and which was excepted by said State of Connecticut out of the cession by the said State heretofore made to the United States, and accept-

ed by a resolution of Congress of the fourteenth of September, one thousand seven hundred and eighty-six, shall be released and conveyed as aforesaid to the said Governor of Connecticut, and his successors in said office, forever, for the purpose of quieting the grantees and purchasers under said State of Connecticut, and confirming their titles to the soil of the said tract of land.

Provided, however, That such letters patent shall not be executed and delivered, unless the State of Connecticut shall, within eight months from passing this act, by a legislative act, renounce forever, for the use and benefit of the United States, and of the several individual States who may be therein concerned, respectively, and of all those deriving claims or titles from them or any of them, all territorial and jurisdictional claims whatever, under any grant, charter, or charters, whatever, to the soil and jurisdiction of any and all lands whatever, lying westward, northward, and southward of those counties, in the State of Connecticut, which are bounded westwardly by the eastern line of the State of New York, as ascertained by agreement between Connecticut and New York, in the year one thousand seven hundred and thirty-three, excepting only from such renunciation the claim of said State of Connecticut, and of those claiming from or under the said State, to the soil of said tract of land herein described under the name of the Western Reserve of Connecticut.

And provided, also, That the said State of Connecticut shall, within the said eight months from and after passing this act, by the agent or agents of said State, duly authorized by the Legislature thereof, execute and deliver, to the acceptance of the President of the United States, a deed expressly releasing to the United States the jurisdictional claim of the said State of Connecticut to the said tract of land herein described under the name of the Western Reserve of Connecticut, and shall deposit an exemplification of said act of renunciation, under the seal of the said State of Connecticut, together with the said deed releasing said jurisdiction, in the office of the Department of State of the United States, which deed of cession when so deposited shall vest the jurisdiction of said territory in the United States: *Provided*, That neither this act, nor anything contained therein, shall be construed so as in any manner to draw into question the conclusive settlement of the dispute between Pennsylvania and Connecticut, by the decree of the federal court at Trenton, nor to impair the right of Pennsylvania or any other State, or of any person or persons claiming under that or any other State, in any existing dispute concerning the right, either of soil or jurisdiction, with the State of Connecticut, or with any person or persons claiming under the State of Connecticut: *And provided, also*, That nothing herein contained shall be construed in any manner to pledge the United States for the extinguishment of the Indian title to the said lands, or further than merely to pass the title of the United States thereto.

Approved, April 28, 1800.

Acts of Congress.

An Act to provide for rebuilding the Light-house at New London; for the support of a Light-house at Clark's Point; for the erection and support of a Light-house at Wigwam Point, and for other purposes.

Be it enacted, &c., That, under the direction of the Secretary of the Treasury, there shall be purchased, for the use of the United States, so much land contiguous to their territory, now occupied for the light-house at New London, as shall be sufficient for vaults, and any other purpose, necessary for the better support of said light-house: *Provided,* That the Legislature of the State of Connecticut shall cede to the United States the jurisdiction of such additional territory.

SEC. 2. *And be it further enacted,* That the Secretary of the Treasury shall be, and he is hereby, authorized, at his discretion, to procure a new lantern, with suitable distinctions, and to cause convenient vaults to be erected, and the said light-house at New London to be rebuilt.

SEC. 3. *And be it further enacted,* That the light-house lately erected at Clark's Point, so called, at the entrance of Accushnet river, within the town of New Bedford, in the State of Massachusetts, shall and may be supported at the expense of the United States. And the Secretary of the Treasury shall and may appoint a keeper thereof, and take further order respecting the same, as in other cases: *Provided,* That the property and jurisdiction of the said light-house, and sufficient territory for the accommodation thereof, shall be fully ceded and legally vested in the United States.

SEC. 4. *And be it further enacted,* That, under the direction of the Secretary of the Treasury, there shall be provided and maintained at the expense of the United States, not exceeding six buoys, to be placed within Buzzard's Bay, upon the most dangerous ledges there, in such manner as the safety of navigation in that bay requires.

SEC. 5. *And be it further enacted,* That the Secretary of the Treasury shall be, and he is hereby, authorized and directed to cause a sufficient light-house to be erected on Wigwam Point, so called, within the town of Gloucester, in the State of Massachusetts, where it will best serve the purpose of discovering the entrance of Anesquam harbor, and to appoint a keeper, and otherwise to provide for the support of such light-house, at the expense of the United States. *Provided,* That sufficient land for the accommodation of such light-house, together with the jurisdiction thereof, shall be duly and legally granted to and vested in the United States.

SEC. 6. *And be it further enacted,* That there shall be, and hereby are, appropriated, for providing the said buoys, a sum not exceeding three hundred dollars, and for the erection of the said light-house at Wigwam Point, a sum, not exceeding two thousand dollars, to be paid out of any moneys which may be in the Treasury of the United States, not otherwise appropriated.

Approved, April 29, 1800.

An Act supplementary to the laws now in force, fixing the compensations of the officers of the Senate and House of Representatives.

Be it enacted, &c. That from and after the thirty-first day of December, one thousand seven hundred and ninety-nine, the officers of the Senate and House of Representatives, hereinafter mentioned, shall be, and hereby are, entitled to receive, in addition to their compensations as now fixed by law, the following sums, that is to say: The Secretary of the Senate and Clerk of the House of Representatives, two hundred and fifty dollars each, in addition to their salaries as at present established by law; and each of their principal and engrossing clerks, in addition to their per diem allowance as established by law, two hundred dollars per annum.

SEC. 2. *And be it further enacted,* That the sergeant-at-arms of the Senate, who also performs the duty of doorkeeper, the sergeant-at-arms of the House of Representatives, and the doorkeeper of the House of Representatives, shall be, and hereby are, entitled to receive five hundred dollars per annum each, and two dollars a day during the session; and the assistant doorkeepers of the Senate and House of Representatives four hundred and fifty dollars per annum each, and two dollars per day during the session, in lieu of the compensations heretofore established by law, which compensations shall commence from the commencement of the present session.

SEC. 3. *And be it further enacted,* That this act shall continue in force for and during the term of two years, and no longer.

Approved, May 2, 1800.

An Act to continue in force "An act laying an additional duty on salt imported into the United States, and for other purposes."

Be it enacted, &c., That an act passed on the eighth day of July, one thousand seven hundred and ninety-seven, entitled "An act laying an additional duty on salt imported into the United States, and for other purposes, shall be, and the same is hereby, continued in force for and during the term of ten years, from the third day of March, one thousand eight hundred, and from thence to the end of the next session of Congress thereafter, and no longer.

Approved, May 7, 1800.

An Act to divide the Territory of the United States Northwest of the Ohio, into two separate Governments.

Be it enacted, &c., That, from and after the fourth day of July next, all that part of the Territory of the United States Northwest of the Ohio river, which lies to the westward of a line beginning at the Ohio, opposite to the mouth of Kentucky river, and running thence to Fort Recovery, and thence north until it shall intersect the territorial line between the United States and Canada, shall, for the purposes of temporary government, constitute a separate territory, and be called the Indiana Territory.

Acts of Congress.

SEC. 2. *And be it further enacted,* That there shall be established within the said Territory a Government in all respects similar to that provided by the ordinance of Congress, passed on the thirteenth day of July, one thousand seven hundred and eighty-seven, for the government of the Territory of the United States Northwest of the river Ohio; and the inhabitants thereof shall be entitled to, and enjoy all and singular, the rights, privileges, and advantages, granted and secured to the people by the said ordinance.

SEC. 3. *And be it further enacted,* That the officers for the said Territory, who, by virtue of this act, shall be appointed by the President of the United States, by and with the advice and consent of the Senate, shall respectively exercise the same powers, perform the same duties, and receive for their services the same compensations, as by the ordinance aforesaid and the laws of the United States, have been provided and established for similar officers in the Territory of the United States Northwest of the river Ohio: And the duties and emoluments of Superintendent of Indian Affairs shall be united with those of Governor: *Provided,* That the President of the United States shall have full power, in the recess of Congress, to appoint and commission all officers herein authorized; and their commissions shall continue in force until the end of the next session of Congress.

SEC. 4. *And be it further enacted,* That so much of the ordinance for the government of the Territory of the United States Northwest of the Ohio river, as relates to the organization of a General Assembly therein, and prescribes the powers thereof, shall be in force and operate in the Indiana Territory, whenever satisfactory evidence shall be given to the Governor thereof that such is the wish of a majority of the freeholders, notwithstanding there may not be therein five thousand free male inhabitants of the age of twenty-one years and upwards: *Provided,* That, until there shall be five thousand free male inhabitants of twenty-one years and upwards in said Territory, the whole number of representatives to the General Assembly shall not be less than seven, nor more than nine, to be apportioned by the Governor to the several counties in the said Territory, agreeably to the number of free males of the age of twenty-one years and upwards, which they may respectively contain.

SEC. 5. *And be it further enacted,* That nothing in this act contained shall be construed so as in any manner to affect the Government now in force in the Territory of the United States Northwest of the Ohio river, further than to prohibit the exercise thereof within the Indiana Territory, from and after the aforesaid fourth day of July next: *Provided,* That, whenever that part of the Territory of the United States which lies to the eastward of a line beginning at the mouth of the Great Miami river, and running thence due north to the territorial line between the United States and Canada, shall be erected into an independent State, and admitted into the Union on an equal footing with the original States, thenceforth said line shall become and remain permanently the

boundary line between such State and the Indiana Territory, anything in this act contained to the contrary notwithstanding.

SEC. 6. *And be it further enacted,* That, until it shall be otherwise ordered by the Legislatures of the said Territories, respectively, Chillicothe, on Scioto river, shall be the seat of the Government of the Territory of the United States Northwest of the Ohio river; and that Saint Vincennes, on the Wabash river, shall be the seat of the Government for the Indiana Territory.

Approved, May 7, 1800.

An Act to enable the President of the United States to borrow money for the public service.

Be it enacted, &c., That the President of the United States shall be, and hereby is, authorized to borrow, on behalf of the United States, from the Bank of the United States, which is hereby authorized to lend the same, or from any other body or bodies politic or corporate, or from any person or persons, and upon such terms and conditions as he shall judge most advantageous for the United States, a sum not exceeding three millions five hundred thousand dollars, in addition to the moneys to be received into the Treasury of the United States from taxes, for making up any deficiency in any appropriation heretofore made by law, or to be made, during the present session of Congress, and defraying the expenses which may be incurred by calling into actual service any part of the militia of the United States, or by arming, equipping, and calling into actual service any regular troops or volunteers, pursuant to authorities vested, or to be vested, in the President of the United States by law: *Provided,* That no engagement nor contract shall be entered into, which shall preclude the United States from reimbursing any sum or sums borrowed, at any time after the expiration of fifteen years from the date of such loan.

SEC. 2. *And be it further enacted,* That so much as may be necessary of the surplus of the duties on imports and tonnage, beyond the permanent appropriations heretofore charged upon them by law, shall be, and hereby is, pledged and appropriated for paying the interest of all such moneys as may be borrowed pursuant to this act, according to the terms and conditions on which the loan or loans, respectively, may be effected; and also for paying and discharging the principal sum or sums of any such loan or loans, according to the terms and conditions to be fixed as aforesaid: And the faith of the United States shall be, and hereby is, pledged to establish sufficient permanent revenues for making up any deficiency that may hereafter appear in the provisions for paying the said interest and principal sums, or any of them, in manner aforesaid.

SEC. 3. *And be it further enacted,* That the sums to be borrowed, pursuant to this act, shall be paid into the Treasury of the United States, and there separately accounted for; and that the same shall be, and hereby are, appropriated in the manner following:

Acts of Congress.

First, to make up any deficiency in any appropriation heretofore made by law, or to be made, during the present session of Congress; and, secondly, to defray the expenses which may be incurred before the end of the next session of Congress, by calling into actual service any part of the militia of the United States, or by raising, equipping, and calling into actual service any regular troops or volunteers, pursuant to authorities vested or to be vested in the President of the United States by law.

Approved, May 7, 1800.

An Act to authorize the sale and conveyance of lands, in certain cases, by the Marshals of the United States, and to confirm former sales.

Be it enacted, &c., That where the United States shall have obtained judgment in civil actions, brought in those States wherein, by the laws and practice of such States, lands or other real estate belonging to the debtor are delivered to the creditor in satisfaction of such judgment, and shall have received seizin and possession of lands so delivered, it shall be lawful for the marshal of the district wherein such lands or other real estate are situated, under the directions of the Secretary of the Treasury, to expose the same to sale at public auction, and to execute a grant thereof to the highest bidder, on receiving payment of the full purchase money; which grant, so made, shall vest in such purchaser all the right, estate, and interest, of the United States in and to such lands, or other real estate.

SEC. 2. *And be it further enacted,* That the sales heretofore made by collectors of certain districts of the United States, of lands or other real estate delivered as aforesaid to the United States, shall be, and they are hereby, confirmed: *Provided,* That this confirmation shall not extend to any sale, unless the condition of such sale has been complied with by the purchaser.

SEC. 3. *And be it further enacted,* That whenever a marshal shall sell any lands, tenements, or hereditaments, by virtue of process from a court of the United States, and shall die, or be removed from office, or the term of his commission expire, before a deed shall be executed for the same by him to the purchaser; in every such case the purchaser or plaintiff, at whose suit the sale was made, may apply to the court from which the process issued, and set forth the case, assigning the reason why the title was not perfected by the marshal who sold the same; and thereupon the court may order the marshal for the time being to perfect the title, and execute a deed to the purchaser, he paying the purchase money and costs remaining unpaid: and where a marshal shall take in execution any lands, tenements, or hereditaments, and shall die, or be removed from office, or the term of his commission expire before sale, or other final disposition made of the same; in every such case, the like process shall issue to the succeeding marshal, and the same proceedings shall be had, as if such former marshal had not died or been removed, or the term of his commission had not

expired: And the provisions in this section contained shall be, and they are hereby, extended to all the cases, respectively, which may have happened before the passing of this act.

Approved, May 7, 1800.

An act for the regulation of public arsenals and magazines.

Be it enacted, &c., That the several officers who now are, or hereafter may be, employed in the armories of the United States shall be entitled to, and shall receive, the following compensations, in addition to their pay as established by law, to wit: A superintendent of such armory, three rations per day, or an equivalent in money; and a master armorer, two rations per day, or an equivalent in money.

SEC. 2. *And be it further enacted,* That if any person shall procure, or entice, any artificer or workman, retained or employed in any arsenal or armory of the United States, to depart from the same during the continuance of his engagement, or avoid or break his contract with the United States, or who after due notice of the engagement of any such workman or armorer, in any arsenal or armory, shall, during the continuance of such engagement, retain, hire, or in any wise employ, harbor, or conceal, such artificer or workman, the person so offending, shall, upon conviction, be fined, at the discretion of the court, not exceeding fifty dollars, or be imprisoned for any term not exceeding three months.

SEC. 3. *And be it further enacted,* That if any artificer or workman, hired, retained, or employed, in any public arsenal or armory, shall wantonly and carelessly break, impair, or destroy any implements, tools, or utensils, or any stock or materials for making guns, the property of the United States; or shall wilfully and obstinately refuse to perform the services lawfully assigned to him, pursuant to his contract, every such person shall forfeit a sum not exceeding twenty dollars for every such act of disobedience or breach of contract, to be recovered in any court having competent jurisdiction thereof.

SEC. 4. *And be it further enacted,* That all artificers and workmen, who are or shall be employed in the said armories, shall be, and they are hereby, exempted, during their term of service, from all military service, and service as jurors in any court.

Approved, May 7, 1800.

An Act making appropriations for the support of Government for the year one thousand eight hundred.

Be it enacted, &c., That, for the expenditure of the civil list, including the contingent expenses of the several departments and officers; for the compensation of clerks in the several loan offices, and for books and stationery for the same; for the payment of annuities and grants, for the support of the Mint establishment, for the expenses of intercourse with foreign nations, for the support of light-houses, beacons, buoys, and public piers, and

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for satisfying certain miscellaneous claims and expenses; the following sums be, and are hereby, appropriated, that is to say:

For the compensation granted by law to the President and Vice President of the United States, thirty thousand dollars.

For the like compensations granted to the members of the Senate and House of Representatives, their officers and attendants, estimated for a session of six months' continuance, one hundred and ninety thousand one hundred and seventy-five dollars.

For the expense of fire-wood, stationery, printing, and all other contingent expenses of the two Houses of Congress, including the sum stipulated to be paid in pursuance of a resolution of March second, one thousand seven hundred and ninety-nine, for supplying both Houses with the journals of Congress, twenty-one thousand six hundred and sixty-four dollars and forty cents.

For the compensations granted by law to the chief-justice, associate judges, district judges, and attorney general, forty-five thousand five hundred dollars.

For the compensations granted by law to the district attorneys, and for defraying the expense of clerks of courts, jurors, and witnesses, in aid of the fund arising from fines, forfeitures, and penalties; and likewise for defraying the expenses of prosecution for offences against the United States, and for safe keeping of prisoners, thirty-three thousand four hundred dollars.

For compensation to the Secretary of the Treasury, clerks, and persons employed in his office, eleven thousand one hundred and eighty-nine dollars and eighty-one cents.

For expenses of stationery, printing, translating of foreign languages, allowance to persons employed in receiving and transmitting passports and sea-letters, in the office of the Secretary of the Treasury, eight hundred dollars.

For compensation to the Comptroller of the Treasury, clerks, and persons employed in his office, twelve thousand nine hundred and seventeen dollars and eight cents.

For expense of stationery, printing, and all other contingent expenses in the Comptroller's office, eight hundred dollars.

For compensation to the Auditor of the Treasury, clerks, and persons employed in his office, twelve thousand one hundred and sixty dollars and ninety-three cents.

For expense of stationery, printing, and all other contingent expenses in the office of the Auditor, seven hundred and fifty dollars.

For compensation to the Treasurer, clerks, and persons employed in his office, five thousand nine hundred and seventeen dollars and forty-five cents.

For expenses of fire-wood, stationery, printing, rent, and all other contingencies in the Treasurer's office, six hundred dollars.

For compensation to the Commissioner of the Revenue, clerks, and persons employed in his office, six thousand one hundred and ninety-three dollars and six cents.

For expense of stationery, printing, and all

other contingent expenses in the office of the Commissioner of the Revenue, four hundred dollars.

For compensation to the Register of the Treasury, clerks, and persons employed in his office, sixteen thousand three hundred and forty-two dollars and one cent.

For expense of stationery, printing, and all other contingent expenses in the Register's office, (including books for the public stocks and for the arrangement of the marine papers,) two thousand eight hundred dollars.

For compensation to the Purveyor of Public Supplies, clerks, and persons employed in his office, two thousand eight hundred and fifty dollars.

For fire-wood, stationery, office, and store rent, for the Purveyor, nine hundred and sixteen dollars.

For compensation to the Secretary of the Commissioners of the Sinking Fund, two hundred and fifty dollars.

For the payment of rent for the several houses employed in the Treasury Department, (except the Treasurer's office,) two thousand seven hundred and thirty dollars and sixty-six cents.

For the expense of fire-wood and candles in the several offices of the Treasury Department, (except the Treasurer's office,) three thousand five hundred dollars.

For defraying the expense incident to the stationing and printing the public accounts for the year one thousand eight hundred, (including an increase of two hundred dollars in consequence of an extension of the revenue and expenditures,) one thousand two hundred dollars.

For defraying the expense incident to the removal of the books and records of the Treasury Department from Philadelphia to Trenton, during part of the summer of the year one thousand seven hundred and ninety-nine, including the extra expenses of the several officers, clerks, and messengers in each office, five thousand dollars.

For compensation to the several loan-officers, thirteen thousand two hundred and fifty dollars.

For the expense incident to the removal of the Loan Office of Pennsylvania from Philadelphia, during part of the summer of the year one thousand seven hundred and ninety-nine, including the extra expenses of the clerks in the said office, three hundred and six dollars.

For compensation to the clerks to the Commissioners of Loans, and an allowance to certain loan officers in lieu of clerk hire, and to defray the authorized expenses of the several Loan Offices, fifteen thousand dollars.

For compensation to the Secretary of State clerks, and persons employed in that department, eleven thousand three hundred dollars.

For the incidental and contingent expenses in the said department, thirteen thousand dollars.

For the expenses incident to the removal of the Department of State from Philadelphia to Trenton, during part of the summer of the year one thousand seven hundred and ninety-nine, including the extra expenses of the Secretary for the Department, the clerks and messengers therein, five hundred and eight dollars and sixty cents.

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For compensation to the following officers of the Mint:

The Director, two thousand dollars;
The Treasurer, one thousand two hundred dollars;

The Assayer, one thousand five hundred dollars;
The Chief Coiner, one thousand five hundred dollars;

The Melter and Refiner, one thousand five hundred dollars;

The Engraver, twelve hundred dollars:
One clerk at seven hundred dollars, and two at five hundred dollars each; one thousand seven hundred dollars.

For persons employed at the different branches of melting, refining, coining, carpenters, millwrights and smiths' work, including the sum of eight hundred dollars per annum allowed to an assistant coiner and die-forger, who also oversees the execution of the iron work, seven thousand dollars.

For the purchase of ironmongery, lead, wood, coals, stationery, office furniture, and for all other contingencies of the establishment of the Mint, six thousand three hundred dollars.

For compensation to the Secretary of War, clerks, and persons employed in his office, eleven thousand one hundred and ninety dollars.

For expenses of fire-wood, stationery, printing, rent, and other contingent expenses in the office of the Secretary of War, two thousand dollars.

For compensation to the Accountant of the War Department, clerks, and persons employed in his office, ten thousand eight hundred and fifty dollars.

For contingent expenses in the office of the Accountant of the War Department, one thousand dollars.

For the expense incident to the removal of the War Department from Philadelphia to Trenton, during part of the summer of the year one thousand seven hundred and ninety-nine, including the extra expenses of the Secretary for the Department, the Accountant, the Paymaster General, the Quartermaster General, the keeper of military stores, clerks, and messengers in each office, four thousand four hundred and twenty-six dollars and fifty-six cents.

For compensation to the Secretary of the Navy, clerks, and persons employed in his office, including deficiencies in former appropriations for clerk hire, nine thousand one hundred and fifty-two dollars and twenty-five cents.

For the expense of fire-wood, stationery, printing, rent, and other contingencies in the office of the Secretary of the Navy, three thousand three hundred dollars.

For compensation to the Accountant of the Navy, clerks, and persons employed in his office, nine thousand two hundred and fifty dollars.

For contingent expenses in the office of the Accountant of the Navy, seven hundred and fifty dollars.

For expense of removing the Department of the Navy from Philadelphia to Trenton, during part of the summer of the year one thousand

seven hundred and ninety-nine, including the extra expenses of the Secretary for the Department, the Accountant, clerks, and messengers in each office, one thousand two hundred and fifty-four dollars and fifty-nine cents.

For compensation to the Surveyor General, two thousand dollars.

For compensation to the assistant surveyors, chain-carriers, axe-men, and other persons employed, stationery, and other contingent expenses in the Surveyor General's Department, (in addition to former appropriations,) two thousand dollars.

For compensation to the Governor, Judges, and Secretary of the Territory Northwest of the river Ohio, five thousand one hundred and fifty dollars.

For expenses of stationery, printing patents for land, office rent, and other contingent expenses in the said territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary of the Mississippi Territory, five thousand one hundred and fifty dollars.

For expenses of stationery, office rent, and other contingent expenses in the said territory, three hundred and fifty dollars.

For compensation to the Postmaster General, Assistant Postmaster General, clerks, and persons employed in the Postmaster General's office, nine thousand three hundred dollars.

For expense of fire-wood, stationery, printing, rent, and other contingent expenses in the office of the Postmaster General, and for the expense incident to the removal of the General Post Office from Philadelphia to Trenton, during part of the summer of the year one thousand seven hundred and ninety-nine, including the extra expenses of the Postmaster General, his Assistant, and clerks; with expenses incurred by the Postmaster at Philadelphia, by a removal of his office to a more healthy part of the city, and of his increased expenses in attending to the duties of his office in the years one thousand seven hundred and ninety-three, one thousand seven hundred and ninety-seven, one thousand seven hundred and ninety-eight, and one thousand seven hundred and ninety-nine, four thousand and eighty-one dollars and forty-nine cents.

For the discharge of such miscellaneous demands against the United States on account of the civil department, not otherwise provided for, as shall have been admitted in a due course of settlement at the Treasury, and which are of a nature, according to the usage thereof, to require payment in specie, two thousand dollars.

For the payment of sundry pensions granted by the late Government, nine hundred and fifty-three dollars and thirty-three cents.

For the maintenance and support of light-houses, beacons, buoys, and public piers, and stake-
age of channels, bars, and shoals, and for occasional improvement in the construction of lanterns and lamps, and materials used therein, and to make good deficiencies in former appropriations occasioned by the increased number of light-houses, thirty-nine thousand three hundred and ninety-two dollars and three cents.

Acts of Congress.

For repairing Charleston light-house, five thousand nine hundred and fifty dollars.

For erecting a light-house on Old Point Comfort (in addition to former appropriations,) one thousand five hundred dollars.

For rebuilding, altering, and improving the light-house at New London, fifteen thousand seven hundred dollars.

For the payment of contracts entered into for building of a light-house on Cape Hatteras, and a beacon on Shell Castle island, (the balance of former appropriations being carried to the credit of the surplus fund,) thirty-five thousand six hundred and ninety-eight dollars.

For the payment of balances which may be found due to individuals, in consequence of settlements at the Treasury, pursuant to the act of Congress passed on the twelfth day of June, one thousand seven hundred and ninety-eight, entitled "An act respecting loan office and final settlement certificates," &c., twenty-five thousand dollars.

For defraying the expenses of printing, with devices, the subscription certificates, and issuing the same to the subscribers to the loan of five millions of dollars, cost of paper; also, the incidental expenses of said loan in its operation at the Bank of the United States; and likewise for printing certificates of the eight per cent. stock for the Treasury, and the several Loan Offices, including the cost of paper, and other incidental expenses of funding this stock, five thousand dollars.

For the discharge of such miscellaneous demands against the United States, not otherwise provided for, as shall have been admitted in a due course of settlement at the Treasury, and which are of a nature, according to the usage thereof, to require payment in specie, four thousand dollars.

For the expenses of intercourse with foreign nations during the present year, in addition to the sum of forty thousand dollars appropriated by law for that purpose, the sum of fifty-two thousand dollars.

For further expenses in carrying into effect the sixth article of the Treaty of Amity, Commerce, and Navigation, between the United States and Great Britain, including the expenses authorized by the act, entitled "An act directing the appointment of agents in relation to the sixth article of the Treaty of Amity, Commerce, and Navigation, between the United States and Great Britain," fifty-two thousand five hundred and fifty-six dollars.

For the salaries of the Commissioners under the seventh article of the said treaty, including the contingent expenses, sixteen thousand four hundred and forty-four dollars.

For the salaries, clerk hire, office rent, and other contingencies of the two agents residing in England on business relative to the said seventh article, nine thousand dollars.

For further expenses in carrying into effect the Treaty of Amity, Navigation, and Limits, between the United States and Spain, twenty thousand dollars.

For the difference between the cost of the stipulated articles in the annuity to the Dey and Re-

gency of Algiers, and the permanent appropriation therefor, fifty-six thousand dollars.

For defraying the expenses incident to the valuation of lands and houses, and enumeration of slaves, within the United States, as directed by the act of July the ninth, one thousand seven hundred and ninety-eight, in addition to the sum appropriated by that act, two hundred and fifteen thousand dollars.

SEC. 2. *And be it further enacted*, That the several appropriations hereinbefore made shall be paid and discharged out of the fund of six hundred thousand dollars reserved by the act "making provision for the debt of the United States," and out of any money which may be in the Treasury not otherwise appropriated.

Approved, May 7, 1800.

An Act making appropriations for the Military Establishment of the United States, in the year one thousand eight hundred.

Be it enacted &c., That, for defraying the expenses of the Military Establishment of the United States, for the year one thousand eight hundred, the pay and subsistence of the officers and men, bounties and premiums, the clothing, hospital, ordnance, quartermaster and Indian departments, the defensive protection of the frontiers, the contingent expenses of the War Department, for the fabrication of cannon and arms, and purchase of ammunition, and for the payment of military pensions, the sum of three millions forty-two thousand five hundred and seventy-six dollars and thirty-five cents be, and is hereby, appropriated, that is to say:

For pay of the army of the United States, one million eighteen thousand six hundred and twenty dollars.

For the subsistence of the army, seven hundred and eighty-seven thousand seven hundred and eighty-six dollars and thirty-five cents.

For forage, the sum of thirty-six thousand six hundred and seventy-two dollars.

For horses, to replace those which may die, or become unfit for service, the sum of five thousand dollars.

For clothing, the sum of two hundred and fifty-seven thousand nine hundred and fifty-five dollars.

For bounties and premiums, the sum of fourteen thousand dollars.

For the hospital department, the sum of fifty-one thousand dollars.

For the ordnance department the sum of one hundred and thirteen thousand five hundred and twenty-two dollars.

For the quartermaster's department, the sum of five hundred and twenty-eight thousand and sixty-five dollars.

For paying annuities to the following nations of Indians, in pursuance of treaties: To the Six Nations, Cherokees, Chickasaws and Creeks, the sum of fifteen thousand dollars.

For promoting civilization among the Indian tribes, and pay of temporary agents, the sum of fifteen thousand dollars.

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For expense attending the running of the line of demarkation between the Indian territory of the United States, including the pay of commissioners, surveyors, and assistants, the sum of four thousand dollars.

For the defensive protection of the frontiers of the United States, including the erection and repairs of forts and fortifications, the sum of sixty thousand dollars.

For loss of stores, allowances to officers on being ordered to distant commands, and for special purposes, advertising and apprehending deserters, printing, purchasing maps, and other contingencies, the sum of forty thousand dollars.

For the annual allowance to the invalids of the United States, for their pensions from the fifth of March, one thousand eight hundred, to the fourth of March, one thousand eight hundred and one, the sum of ninety-three thousand dollars.

SEC. 2. *And be it further enacted*, That for the fabrication of cannon and arms, and purchase of ammunition for the army and navy, and for the militia of the United States, in addition to the sums unexpended of the appropriations made by the acts of Congress of the fourth of May and first of July, seventeen hundred and ninety-eight, the sum of two hundred and sixty thousand dollars shall be, and hereby is, appropriated.

SEC. 3. *And be it further enacted*, That the foregoing appropriations shall be paid out of any moneys in the Treasury of the United States not otherwise appropriated.

Approved, May 10, 1800.

An Act to establish the district of Kennebunk, and to annex Lyme to New London; and to alter the district of Bermuda Hundred and City Point; and therein to amend the act, entitled, "An act to regulate the collection of duties on imports and tonnage."

Be it enacted, &c., That, from and after the thirtieth day of June next, the towns of Wells and Arundel, in the State of Massachusetts, and all the shores and waters thereof, shall be a district, to be called the district of Kennebunk, of which the port of Kennebunk shall be the sole port of entry; and the ports of Wells and Cape Porpoise shall be ports of delivery only; and a collector for the district shall be appointed, to reside at Kennebunk.

SEC. 2. *And be it further enacted*, That ships and vessels, owned in whole or in part in the towns of Edgecomb and Newcastle, in the district of Maine, having entered in due form of law at the port of Wiscasset, and taken on board an officer, shall be permitted to unlade in the ports of the said towns which adjoin Sheepscut river.

SEC. 3. *And be it further enacted*, That, from and after the thirtieth day of June next, the town of Lyme, in the State of Connecticut, and the shores and waters thereof, shall be annexed, as a port of delivery only, to the district of New London, and all vessels bound to or from the said port of Lyme, shall first come to, enter, and clear, at the said port of New London: *Provided, however*, That the surveyor appointed to reside at Saybrook shall be authorized to visit and inspect ships or vessels arriv-

ing at said port of Lyme, and, generally, to perform the duties of a surveyor, as may be requisite within said port.

SEC. 4. *And be it further enacted*, That, from and after the thirtieth day of June next, the district of Bermuda Hundred and City Point, as at present constituted, in the State of Virginia, shall be called the district of Petersburg, to comprehend Petersburg, City Point, and all the waters, shores, bays, harbors, and inlets, of James river, from Hood's and the junction of Chicahoming, to the junction of the James and Appamattox rivers, and from thence to the highest tide-water of Appamattox, and also the Chicahoming to its highest tide-water mark; and the port for the said district shall extend from Petersburg to City Point. And another district shall be formed, to be called the district of Richmond, to comprehend Richmond, Manchester, and Bermuda Hundred, and all the waters, shores, bays, harbors, and inlets, of James river, from Bermuda Hundred, including the harbor thereof, to the highest tide-waters of James river; and the port shall extend from Richmond and Manchester to Bermuda Hundred. The office of collector for the district of Petersburg shall be kept in the town of Petersburg; and a collector shall be appointed for the Richmond district, whose office shall be kept in the city of Richmond; and the surveyors within those two districts shall continue to reside at the places at present established by law.

SEC. 5. *And be it further enacted*, That the master of any ship or vessel, bound to any district of James river above Sewall's Point, shall, before he pass by the said Point, and immediately after his arrival either at the same or at Hampton Road, deposit with the collector of the port of Norfolk and Portsmouth, or of Hampton, a true manifest of the cargo on board such ship or vessel; and the said collector shall, after registering the manifest, transmit the same, duly certified to have been so deposited, to the officer with whom the entries are to be made: And the said collector may, whenever he shall judge it to be necessary for the security of the revenue, put an inspector of the customs on board any such ship or vessel, to accompany the same until her arrival at the first port of entry or delivery, in the district, to which such ship or vessel may be destined: And if the master or commander of any such ship or vessel shall neglect or omit to deposit a manifest in manner as aforesaid, or shall refuse to receive an inspector of customs on board, as the case shall require, he shall forfeit and pay five hundred dollars, to be recovered with costs of suit, one-half for the use of the officer with whom such manifest ought to have been deposited, and the other half to the use of the collector of the district to which the said ship or vessel may be bound.

SEC. 6. *And be it further enacted*, That such part and so much of the act, entitled "An act to regulate the collection of duties on imports and tonnage," as comes within the purview of this act, being contrary hereto, shall be and hereby is repealed.

Approved, May 10, 1800.

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An Act supplemental to the act, entitled "An act for an amicable settlement of limits with the State of Georgia; and authorizing the establishment of a government in the Mississippi Territory."

Be it enacted, &c., That so much of the ordinance of Congress of the thirteenth of July, one thousand seven hundred and eighty-seven, and of the act of Congress of the seventh of August, one thousand seven hundred and eighty-nine, providing for the government of the Territory of the United States Northwest of the river Ohio, as relates to the organization of a General Assembly therein, and prescribes the powers thereof, shall forthwith operate, and be in force in the Mississippi Territory: *Provided,* That until the number of free male inhabitants of full age, in the said Territory, shall amount to five thousand, there shall not be returned to the General Assembly more than nine representatives.

SEC. 2. *And be it further enacted,* That until the number of free male inhabitants of full age in the Mississippi Territory, shall amount to five thousand, the county of Adams shall be entitled to choose four representatives to the General Assembly, the county of Pickering four, and the Tensaw and Tombigbee settlements one.

SEC. 3. *And be it further enacted,* That the first election, for representatives to the General Assembly, shall be on the fourth Monday in July next, and that all subsequent elections shall be regulated by the Legislature.

SEC. 4. *And be it further enacted,* That it shall be the duty of the Governor of the Mississippi Territory, to cause the said election to be holden on the day aforesaid, at the most convenient place in the counties and settlements aforesaid, and to nominate a proper officer or officers to preside at and conduct the same, and to return to him the names of the persons who may have been duly elected.

SEC. 5. *And be it further enacted,* That the representatives shall be convened by the Governor at the town of Natchez, on the fourth Monday in September next.

SEC. 6. *And be it further enacted,* That so soon as the number of free male inhabitants of full age shall amount to, or exceed five thousand, the number of representatives to the General Assembly shall be determined, and the apportionment made in the way prescribed in the ordinance.

SEC. 7. *And be it further enacted,* That nothing in this act shall in any respect impair the right of the State of Georgia to the jurisdiction, or of the said State, or of any person or persons to the soil of the said Territory, but the rights and claims of the said State, and all persons interested, are hereby declared to be as firm and available as if this act had never been made.

SEC. 8. *And be it further enacted,* That the General Assembly shall meet at least once in every year, and such meeting shall be on the first Monday of December, unless they shall by law appoint a different day: *Provided,* That the Governor shall have power on extraordinary occasions to convene the General Assembly.

SEC. 9. *And be it further enacted,* That neither

House during the session of the General Assembly shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

SEC. 10. *And be it further enacted,* That it shall be lawful for the commissioners appointed, or who may hereafter be appointed on the part of the United States, in pursuance of the act, entitled "An act for an amicable settlement of limits with the State of Georgia; and authorizing the establishment of a government in the Mississippi Territory," or any two of them, finally to settle by compromise with the commissioners, which have been or may be appointed by the State of Georgia, any claims mentioned in said act, and to receive in behalf of the United States a cession of any lands therein mentioned, or of the jurisdiction thereof, on such terms as to them shall appear reasonable: And also, that the said commissioners on the part of the United States, or any two of them, be authorized to inquire into the claims which are or shall be made by settlers or any other persons whatsoever, to any part of the aforesaid lands, and to receive from such settlers and claimants any propositions of compromise which may be made by them, and lay a full statement of the claims and the propositions which may be made to them by the settlers or claimants to any part of the said lands, together with their opinion thereon, before Congress, for their decision thereon, as soon as may be: *Provided,* That the settlement shall be made and completed before the fourth day of March, one thousand eight hundred and three: *And provided, also,* That the said commissioners shall not contract for the payment of any money from the Treasury of the United States to the State of Georgia, other than the proceeds of the same lands.

Approved, May 10, 1800.

An Act in addition to the act, entitled "An act to prohibit the carrying on the slave trade from the United States to any foreign place or country."

Be it enacted, &c., That it shall be unlawful for any citizen of the United States, or other person residing within the United States, directly or indirectly, to hold or have any right or property in any vessel employed or made use of in the transportation or carrying of slaves from one foreign country or place to another, and any right or property, belonging as aforesaid, shall be forfeited, and may be libelled and condemned for the use of the person who shall sue for the same; and such person, transgressing the prohibition aforesaid, shall also forfeit and pay a sum of money equal to double the value of the right of property in such vessel, which he held as aforesaid; and shall also forfeit a sum of money equal to double the value of the interest which he may have had in the slaves, which at any time may have been transported or carried in such vessel, after the passing of this act, and against the form thereof.

SEC. 2. *And be it further enacted,* That it shall be unlawful for any citizen of the United States, or other person residing therein, to serve on board any vessel of the United States employed or made

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use of in the transportation or carrying of slaves, from one foreign country or place to another; and any such citizen or other person, voluntarily serving as aforesaid, shall be liable to be indicted therefor, and, on conviction thereof, shall be liable to a fine not exceeding two thousand dollars, and be imprisoned not exceeding two years.

SEC. 3. *And be it further enacted*, That if any citizen of the United States shall voluntarily serve on board of any foreign ship or vessel, which shall hereafter be employed in the slave trade, he shall, on conviction thereof, be liable to, and suffer the like forfeitures, pains, disabilities, and penalties, as he would have incurred, had such ship or vessel been owned or employed, in whole or in part, by any person or persons residing within the United States.

SEC. 4. *And be it further enacted*, That it shall be lawful for any of the commissioned vessels of the United States, to seize and take any vessel employed in carrying on trade, business, or traffic, contrary to the true intent and meaning of this or the said act to which this is in addition; and such vessel, together with her tackle, apparel, and guns, and the goods or effects, other than slaves, which shall be found on board, shall be forfeited, and may be proceeded against in any of the district or circuit courts, and shall be condemned for the use of the officers and crew of the vessel making the seizure, and be divided in the proportion directed in the case of prize: And all persons interested in such vessel, or in the enterprise or voyage in which such vessel shall be employed at the time of such capture, shall be precluded from all right or claim to the slaves found on board such vessel as aforesaid, and from all damages or retribution on account thereof: And it shall moreover be the duty of the commanders of such commissioned vessels, to apprehend and take into custody every person found on board of such vessel so seized and taken, being of the officers or crew thereof, and him or them convey, as soon as conveniently may be, to the civil authority of the United States, in some one of the districts thereof, to be proceeded against in due course of law.

SEC. 5. *And be it further enacted*, That the district and circuit courts of the United States shall have cognizance of all acts and offences against the prohibitions herein contained.

SEC. 6. *Provided, nevertheless, and be it further enacted*, That nothing in this act contained shall be construed to authorize the bringing into either of the United States, any person or persons, the importation of whom is, by the existing laws of such State, prohibited.

SEC. 7. *And be it further enacted*, That the forfeitures which shall hereafter be incurred under this, or the said act to which this is in addition, not otherwise disposed of, shall accrue, and be, one moiety thereof to the use of the informer, and the other moiety to the use of the United States, except where the prosecution shall be first instituted on behalf of the United States, in which case the whole shall be to their use.

Approved, May 10, 1800.

An Act to provide for equalizing the valuations of unseated lands.

Be it enacted, &c., That the commissioners appointed under the act, entitled "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States," in those States the valuations and enumerations whereof are not yet closed and returned to the Treasury Department, shall be, and hereby are, authorized and empowered, on examination and consideration, at some general meeting to be convened pursuant to law, of the lists, returns, valuations and abstracts, rendered to them by the assessors within their respective States, to revise the valuations of unseated lands in each and every assessment district of their respective States, and in each and every sub-division of such districts, respectively, and to vary and adjust the said valuations, by adding thereto or deducting therefrom such rate per centum as to them shall appear just and reasonable: *Provided always*, That the relative valuations of different tracts of unseated land in the same sub-division shall not be changed or affected.

SEC. 2. *And be it further enacted*, That the said commissioners may direct the deductions and additions aforesaid to be made out and completed by the principal assessors of the aforesaid assessment district, respectively, or, if they shall deem it more proper, by their own clerk and by such assistants as they shall find necessary and appoint for that purpose: *Provided, always*, That the compensation to be made to the said assistants shall not exceed the pay allowed to the assistant assessors by the act aforesaid.

Approved, May 10, 1800.

An Act supplementary to an act, entitled "An act to establish the compensation of the officers employed in the collection of the duties on impost and tonnage."

Be it enacted, &c., That, from and after the thirtieth day of June next, there shall be allowed and paid annually, to and for the use of the several collectors and surveyors appointed, and to be appointed pursuant to law, and employed in the collection of the duties of imports and tonnage, in the districts hereinafter mentioned, in addition to their fees and emoluments otherwise allowed by law, the sums following, respectively, that is to say: The collectors of Passamaquoddy, Waldoborough, and St. Mary's, two hundred and fifty dollars each: To the collectors of Machias, Great Egg Harbor, Little Egg Harbor, Perth Amboy, Bridgetown, Sunbury, and Georgetown, in Maryland, one hundred dollars each; and to the collectors of Sagg Harbor, Brunswick, in Georgia, and Dumfries, fifty dollars each: To the surveyor of Bermuda Hundred, one hundred and fifty dollars; and to the surveyors of Newport, Providence, Port Royal, Alexandria, and Saybrook, one hundred dollars each.

SEC. 2. *And be it further enacted*, That, in lieu of the commissions heretofore allowed by law, there shall, from and after the thirtieth day of June next, be allowed to the collectors for the districts of Alexandria, Petersburg, and Richmond,

respectively, two and a half per centum, on all moneys which shall be collected and received by them: To the collector for the district of Boston and Charlestown, and to the collectors of Baltimore and Philadelphia, three-eighths of one per centum: To the collectors of Charleston, South Carolina, Salem, and Norfolk, and Portsmouth, three-quarters of one per centum: To the collector of the district of Portland, one per centum; for and on account of the duties arising on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships and vessels.

SEC. 3. *And be it further enacted*, That it shall be the duty of the collectors of the several districts of Philadelphia, New York, Boston, Baltimore, Norfolk, and Charleston, and they are hereby respectively directed, to deposit for collection in the Bank of the United States, or at an office of discount and deposit of the said bank, all the bonds taken, or to be taken by them, for duties, by virtue of any law of the United States; but on all money collected by the said banks the commissions aforesaid are to be allowed the said collectors, in like manner as if received by them.

Approved, May 10, 1800.

An Act to amend the act, entitled "An act providing for the sale of the lands of the United States, in the Territory Northwest of the Ohio, and above the mouth of Kentucky river."

Be it enacted, &c., That, for the disposal of the lands of the United States, directed to be sold by the act, entitled "An act providing for the sale of the lands of the United States, in the Territory Northwest of the Ohio, and above the mouth of Kentucky river," there shall be four land offices established in the said territory: One at Cincinnati, for lands below the Little Miami, which have not heretofore been granted; one at Chillicothe, for lands east of the Sciota, south of the lands appropriated for satisfying military bounties to the late army of the United States, and west of the fifteenth range of townships; one at Marietta, for the lands east of the sixteenth range of townships, south of the beforementioned military lands, and south of a line drawn due west from the northwest corner of the first township of the second range, to the said military lands; and one at Steubenville, for the lands north of the last mentioned line, and east or north of the said military lands: Each of the said offices shall be under the direction of an officer, to be called "The Register of the Land Office," who shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall give bond to the United States, with approved security, in the sum of ten thousand dollars, for the faithful discharge of the duties of his office; and shall reside at the place where the land-office is directed to be kept.

SEC. 2. *And be it further enacted*, That it shall be the duty of the surveyor general, and he is hereby expressly enjoined, to prepare and transmit to the registers of the several land offices, before the days herein appointed for commencing sales, general plats of the lands hereby directed to be sold at

the said offices, respectively, and also to forward copies of each of the said plats to the Secretary of the Treasury.

SEC. 3. *And be it further enacted*, That the surveyor general shall cause the townships west of the Muskingum, which by the above mentioned act are directed to be sold in quarter townships, to be subdivided into half sections of three hundred and twenty acres each, as nearly as may be, by running parallel lines through the same from east to west, and from south to north, at the distance of one mile from each other, and marking corners, at the distance of each half mile on the lines running from east to west, and at the distance of each mile on those running from south to north, and making the marks, notes, and descriptions, prescribed to surveyors by the abovementioned act: And the interior lines of townships intersected by the Muskingum, and of all the townships lying east of that river, which have not been heretofore actually subdivided into sections, shall also be run and marked in the manner prescribed by the said act, for running and marking the interior lines of townships directed to be sold in sections of six hundred and forty acres each: And in all cases where the exterior lines of the townships, thus to be subdivided into sections or half sections, shall exceed or shall not extend six miles, the excess or deficiency shall be specially noted, and added to or deducted from the western and northern ranges of sections or half sections in such township, according as the error may be in running the lines from east to west, or from south to north. The sections and half sections bounded on the northern and western lines of such townships shall be sold as containing only the quantity expressed in the returns and plats, respectively, and all others as containing the complete legal quantity: And the President of the United States shall fix the compensation of the deputy surveyors, chain-carriers, and axe-men: *Provided*, The whole expense of surveying and marking the lines shall not exceed three dollars for every mile that shall be actually run, surveyed, and marked.

SEC. 4. *And be it further enacted*, That the lands thus subdivided (excluding the sections reserved by the abovementioned act) shall be offered for sale in sections and half sections, subdivided as before directed, at the following places and times, that is to say: those below the Little Miami shall be offered at public vendue, in the town of Cincinnati, on the first Monday of April, one thousand eight hundred and one, under the direction of the register of the land office there established, and of either the Governor or Secretary of the Northwestern Territory: The lands east of Sciota, south of the military lands, and west of the fifteenth range of townships, shall be offered in like manner for sale at Chillicothe, on the first Monday of May, one thousand eight hundred and one, under the direction of the register of the land office there established, and of either the Governor or Secretary of the said territory: The lands east of the sixteenth range of townships, south of the military lands, and west of the Muskingum, including all the townships intersected by that river,

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shall be offered for sale in like manner at Marietta, on the last Monday of May, one thousand eight hundred and one, under the direction of the Governor or Secretary, or surveyor general of the said territory. The sales shall remain open at each place for three weeks and no longer. The superintendents shall observe the rules and regulations of the abovementioned act, in classing and selling fractional with entire sections, and in keeping and transmitting accounts of the sales. All lands, remaining unsold, at the closing of either of the public sales, may be disposed of at private sale by the registers of these respective land offices, in the manner hereinafter prescribed. And the register of the land office at Steubenville, after the first day of July next, may proceed to sell at private sale the lands situate within the district assigned to his direction as herein before described, disposing of the same in sections, and classing fractional with entire sections, according to the provisions and regulations of the abovementioned act and of this act: And the register of the land office at Marietta, after the said first day of July next, may proceed to sell, at private sale, any of the lands within the district assigned to his direction as aforesaid, which are east of the river Muskingum, excluding the townships intersected by that river, disposing of the same in sections, and classing fractional with entire sections as aforesaid.

Sec. 5. *And be it further enacted*, That no lands shall be sold by virtue of this act, at either public or private sale, for less than two dollars per acre, and payment may be made for the same by all purchasers, either in specie, or in evidences of the public debt of the United States, at the rates prescribed by the act, entitled "An act to authorize the receipt of evidences of the public debt in payment for the lands of the United States;" and shall be made in the following manner, and under the following conditions, to wit:

1. At the time of purchase, every purchaser shall, exclusively of the fees hereafter mentioned, pay six dollars for every section, and three dollars for every half section, he may have purchased, for surveying expenses, and deposit one-twentieth part of the amount of the purchase money, to be forfeited, if within forty days one-fourth part of the purchase money, including the said twentieth part, is not paid.

2. One-fourth part of the purchase money shall be paid within forty days after the day of sale as aforesaid; another fourth part shall be paid within two years; another fourth part within three years; and another fourth part within four years after the day of sale.

3. Interest, at the rate of six per cent. a year, from the day of sale, shall be charged upon each of the three last payments, payable as they respectively become due.

4. A discount, at the rate of eight per cent. a year, shall be allowed on any of the three last payments, which shall be paid before the same shall become due, reckoning this discount always upon the sum, which would have been demandable by the United States, on the day appointed for such payment.

5. If the first payment of one-fourth part of the purchase money shall not be made within forty days after the sale, the deposit, payment, and fees, paid and made by the purchaser, shall be forfeited, and the lands shall and may, from and after the day when the payment of one fourth part of the purchase money should have been made, be disposed of at private sale, on the same terms and conditions, and in the same manner as the other lands directed by this act to be disposed of at private sale. *Provided*, That the lands which shall have been sold at public sale, and which shall, on account of such failure of payment, revert to the United States, shall not be sold at private sale, for a price less than the price that shall have been offered for the same at public sale.

6. If any tract shall not be completely paid for within one year after the date of the last payment, the tract shall be advertised for sale by the register of the land office within whose district it may lie, in at least five of the most public places in the said district, for at least thirty days before the time of sale; and he shall sell the same at public vendue, during the sitting of the court of quarter sessions of the county in which the land office is kept, for a price not less than the whole arrears due thereon, with the expenses of sale; the surplus, if any, shall be returned to the original purchaser, or to his legal representative; but if the sum due, with interest, be not bidden and paid, then the land shall revert to the United States. All moneys paid therefor shall be forfeited, and the register of the land office may proceed to dispose of the same to any purchaser, as in case of other lands at private sale.

Sec. 6. *And be it further enacted*, That all and every the payments, to be made by virtue of the preceding section, shall be made either to the Treasurer of the United States, or to such person or officer as shall be appointed by the President of the United States, with the advice and consent of the Senate, receiver of public moneys for lands of the United States, at each of the places respectively where the public and private sales of the said lands are to be made; and the said receiver of public moneys shall, before he enters upon the duties of his office, give bond, with approved security, in the sum of ten thousand dollars, for the faithful discharge of his trust; and it shall be the duty of the said Treasurer and receiver of public moneys to give receipts for the moneys by them received, to the persons respectively paying the same; to transmit within thirty days in case of public sale, and quarterly in case of private sale, an account of all the public moneys by them received, specifying the amount received from each person, and distinguishing the sums received for surveying expenses, and those received for purchase money, to the Secretary of the Treasury, and to the registers of the land office, as the case may be. The said receivers of public moneys shall, within three months after receiving the same, transmit the moneys by them received to the Treasurer of the United States; and the receivers of public moneys for the said sales, and also the receivers of public moneys for the sales

which have taken place at Pittsburg under the act, entitled "An act providing for the sale of the lands of the United States in the Territory Northwest of the Ohio and above the mouth of Kentucky river," shall receive one per cent. on the money received, as a compensation for clerk hire, receiving, safe-keeping, and transmitting it to the Treasury of the United States.

SEC. 7. *And be it further enacted*, That it shall be the duty of the registers of the land offices, respectively, to receive and enter in books kept for that purpose only, and on which no blank leaves or space shall be left between the different entries, the applications of any person or persons who may apply for the purchase of any section or half section, and who shall pay him the fee hereafter mentioned, and produce a receipt from the Treasurer of the United States, or from the receiver of public moneys appointed for that purpose, for three dollars for each half section such person or persons may apply for, and for at least one-twentieth part of the purchase money, stating carefully in each entry the date of the application, the date of the receipt to him produced, the amount of moneys specified in the said receipt, and the number of the section or half section, township, and range, applied for. If two or more persons shall apply at the same time for the said tract, the register shall immediately determine by lot, in presence of the parties, which of them shall have preference. He shall file the receipt for moneys produced by the party, and give him a copy of his entry, and, if required, a copy of the description of the tract, and a copy of the plat of the same, or either of them; and it shall be his duty to inform the party applying for any one tract, whether the same has already been entered, purchased, or paid for, and at his request to give him a copy of the entry or entries concerning the same. He shall, three months after the date of each application, if the party shall not have within that time produced to him a receipt of the payment of one-fourth part of the purchase money, including the twentieth part above mentioned, enter under its proper date, in the said book of entries, that the payment has not been made, and that the land has reverted to the United States, and he shall make a note of the same in the margin of the book opposite to the original entry. And if the party shall, either at the time of making the original entry, or at any time within three months thereafter, produce a receipt to him, for the fourth part of the purchase money, including the twentieth part aforesaid, he shall file the receipt, make an entry of the same, under its proper date, in the said book of entries, make a note of the same in the margin of the book, opposite to the original entry, and give to the party a certificate, describing the land sold, the sum paid on account, the balance remaining due, the time and times when such balance shall become due, and that if it shall be duly discharged the purchaser, or his assignee or other legal representative, shall be entitled to a patent for the said lands; he shall also upon any subsequent payment being made, and a receipt from the receiver being produced to him, file the

original receipt, give a receipt for the same to the party, and enter the same to the credit of the party, in a book kept for that purpose, in which he shall open an account, in the name of each purchaser, for each section or half section that may be sold either at public or private sale, and in which he shall charge the party for the whole purchase money, and give him credit for all his payments; making the proper charges and allowances for interest or discount, as the case may be, according to the provisions of the fourth section of this act; and upon the payment being completed, and the account finally settled, he shall give a certificate of the same to the party; and, on producing to the Secretary of the Treasury the same final certificate, the President of the United States is hereby authorized to grant a patent for the lands to the said purchaser, his heirs or assigns; and all patents shall be countersigned by the Secretary of State, and recorded in his office.

SEC. 8. *And be it further enacted*, That the registers, of the land offices, respectively, shall also note on the book of surveys, or original plat transmitted to them, every tract which may be sold, by inserting the letter A on the day when the same is applied for, and the letter P on the day when a receipt for one-fourth part of the purchase money is produced to them, and by crossing the said letter A on the day when the land shall revert to the United States, on failure of the payment of one-fourth part of the purchase money within three months after the date of application. And the said book of surveys or original plat shall be open at all times, in presence of the register, for the inspection of any individual, applying for the same and paying the proper fee.

SEC. 9. *And be it further enacted* That it shall be the duty of the registers of the land offices to transmit quarterly to the Secretary of the Treasury, and to the surveyor general, an account of the several tracts applied for, of the several tracts for which the payment of one-fourth part of the purchase money has been made, of the several tracts which have reverted to the United States on failure of the said payment; and also an account of all the payments of moneys by them entered, according to the receipts produced to them, specifying the sums of money, the names of the persons paying the same, the names of the officers who have received the same, and the tracts for which the same have been paid.

SEC. 10. *And be it further enacted*, That the registers aforesaid shall be precluded from entering on their books any application for lands in their own name, and in the name of any other person in trust for them; and if any register shall wish to purchase any tract of land, he may do it by application in writing to the surveyor general, who shall enter the same on books kept for that purpose by him, who shall proceed in respect to such applications, and to any payments made for the same, in the same manner which the registers by this act are directed to follow, in respect to applications made to them for lands by other persons. The registers shall, nevertheless, note on the book of surveys, or original plat, the appli-

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cations and payments thus by them made, and their right to the pre-emption of any tract shall bear date from the day, when their application for the same shall have been entered by the surveyor general in his own book. And if any person applying for any tract shall, notwithstanding he shall have received information from the register, that the same has already been applied for by the said register, or by any other person, insist to make the application, it shall be the duty of the register to enter the same, noting in the margin that the same tract is already purchased; but upon application of the party made in writing, and which he shall file, he may and shall at any future time enter under its proper date, that the party withdraws his former application, and applies in lieu thereof for any other tract: *Provided, always*, That the party shall never be allowed thus to withdraw his former application, and to apply in lieu thereof for another tract, except when the tract described in his former application shall have been applied for previous to the date of that his former application.

SEC. 11. *And be it further enacted*, That the Secretary of the Treasury shall and may prescribe such further regulations, in the manner of keeping books and accounts, by the several officers in this act mentioned, as to him may appear necessary and proper, in order fully to carry into effect the provisions of this act.

SEC. 12. *And be it further enacted*, That the registers of the land offices, respectively, shall be entitled to receive from the Treasury of the United States, one-half per cent. on all the moneys expressed in the receipts by them filed and entered, and of which they shall have transmitted an account to the Secretary of the Treasury, as directed by this act; and they shall further be entitled to receive, for their own use, from the respective parties, the following fees for services rendered, that is to say: for every original application for land, and a copy of the same, for a section, three dollars; for a half section, two dollars; for every certificate stating that the first fourth part of the purchase-money is paid, twenty-five cents; for every subsequent receipt for moneys paid, twenty-five cents; for the final settlement of account, and giving the final certificate of the same, one dollar; for every copy, either of an application or of the description of any section or half section, or of the plat of the same, or of any entry made on their books, or of any certificate heretofore given by them, twenty-five cents for each; and for any general inspection of the book of surveys, or general plat, made in their presence, twenty-five cents.

SEC. 13. *And be it further enacted*, That the superintendents of the public sales, to be made by virtue of this act, and the superintendents of the sales which have taken place by virtue of the act, entitled "An act providing for the sale of the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river," shall receive five dollars a day whilst engaged in that business; and the accounting officers of the Treasury are hereby authorized to al-

low a reasonable compensation for books, stationery, and clerk hire, in settling the accounts of the said superintendents.

SEC. 14. *And be it further enacted*, That the fee to be paid for each patent for half a section shall be four dollars, and for every section five dollars, to be accounted for by the receiver of the same.

SEC. 15. *And be it further enacted*, That the lands of the United States reserved for future disposition, may be let upon leases by the surveyor general, in sections or half sections, for terms not exceeding seven years, on condition of making such improvement as he shall deem reasonable.

SEC. 16. *And be it further enacted*, That each person who, before the passing of this act, shall have erected, or begun to erect, a grist-mill or saw-mill upon any of the lands herein directed to be sold, shall be entitled to the pre-emption of the section including such mill, at the rate of two dollars per acre: *Provided*, The person or his heirs, claiming such right of pre-emption, shall produce to the register of the land office satisfactory evidence that he or they are entitled thereto, and shall be subject to and comply with the regulations and provisions by this act prescribed for other purchasers.

SEC. 17. *And be it further enacted*, That so much of the "act providing for the sale of the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river," as comes within the purview of this act, be, and the same is hereby, repealed.

Approved, May 10, 1800.

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An Act to ascertain the compensation of public Ministers.

Be it enacted, &c., That, exclusive of an outfit, which shall in no case exceed the amount of one year's full salary to any minister plenipotentiary or chargé des affaires, to whom the same may be allowed, the President of the United States shall not allow to any minister plenipotentiary a greater sum than at the rate of nine thousand dollars per annum, as a compensation for all his personal services and expenses; nor a greater sum for the same than four thousand five hundred dollars per annum to a chargé des affaires; nor a greater sum for the same than one thousand three hundred and fifty dollars per annum to the secretary of any minister plenipotentiary.

SEC. 2. *And be it further enacted*, That where any sum or sums of money shall be drawn from the Treasury, under any law making appropriation for the contingent expenses of intercourse between the United States and foreign nations, the President shall be, and he hereby is, authorized to cause the same to be duly settled, annually, with the accounting officers of the Treasury, in manner following, that is to say: by causing the same to be accounted for specially in all instances wherein the expenditure thereof may, in his judgment, be made public, and by making a certificate of the amount of such expenditure as he may think it adviseable not to specify, and every such

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certificate shall be deemed a sufficient voucher for the sum or sums therein expressed to have been expended.

Approved, May 10, 1800.

An Act to make appropriations for the Navy of the United States, during the year one thousand eight hundred.

Be it enacted, &c., That, for defraying the expenses of the navy of the United States, during the year one thousand eight hundred, there shall be, and hereby is, appropriated the sum of two millions, four hundred and eighty-two thousand nine hundred and fifty-three dollars and ninety-nine cents, that is to say: for the pay of the officers of the navy of the United States, the sum of three hundred and ninety-one thousand five hundred and ninety-six dollars; for the subsistence of the officers of the navy, the sum of seventy thousand seven hundred and twenty-two dollars and forty cents; for the pay of the seamen, the sum of eight hundred and eighteen thousand three hundred and forty dollars; for provisions, the sum of six hundred and three thousand six hundred and forty-two dollars and sixty-seven cents; for contingent expenses, including the waste of military stores, the expense of the navy store at Philadelphia, comprising storekeeper's salary, clerk hire, store rent, laborers, portage, and freight, and for making good deficiencies in former appropriations, and for similar expenses at Boston, Newport, Baltimore, Norfolk, New York, and other ports, the sum of three hundred and ninety-three thousand six hundred dollars; for the expense of hospitals, medicines, and hospital stores, the sum of thirty-two thousand six hundred and forty-seven dollars and twenty cents; for the support of the revenue cutters, while employed in the navy service, the sum of ten thousand dollars; for the pay of the officers, non-commissioned officers, and privates, of the marine corps, the sum of ninety-four thousand seven hundred and thirty-four dollars; for subsistence of the officers of the said corps, the sum of eight thousand and eighteen dollars and sixty cents; for clothing for the said corps, the sum of thirty-three thousand five hundred and thirty dollars and seventy-four cents; for military stores for the said corps, the sum of twelve thousand two hundred and seventy-seven dollars and eighty-eight cents; for the contingent expenses of the said corps, including camp equipage, quartermaster's, barrack-master's, and hospital stores, and bounties and premiums, the sum of thirteen thousand eight hundred and forty-four dollars.

SEC. 2. *And be it further enacted*, That the aforesaid appropriations shall be paid out of any moneys in the Treasury of the United States not otherwise appropriated.

Approved, May 10, 1800.

An Act supplementary to the act, entitled "An act to establish the Treasury Department."

Be it enacted, &c., That it shall be the duty of the Secretary of the Treasury to digest, prepare,

and lay before Congress, at the commencement of every session, a report on the subject of finance, containing estimates of the public revenue and public expenditures, and plans for improving or increasing the revenues, from time to time, for the purpose of giving information to Congress in adopting modes of raising the money requisite to meet the public expenditures.

Approved, May 10, 1800.

An Act to authorize the issuing certain Patents.

Be it enacted, &c., That it shall be lawful, and the proper officer is hereby authorized, to issue patents or surveys, which have been, or may be made within the territory reserved by the State of Virginia, northwest of the river Ohio, and being part of her cession to Congress, on warrants for military services, issued in pursuance of any resolution of the Legislature of that State, previous to the passing of this act, in favor of persons who had served in the Virginia line on the Continental establishment: *Provided*, That the whole quantity of land, for which patents shall issue by virtue of this act, shall not exceed sixty thousand acres; and that the surveys aforesaid shall be completed and deposited in the office of the Secretary of War, on or before the first day of December, one thousand eight hundred and three: *And provided, also*, That this act shall not give any force or validity to the entries, locations, or surveys, heretofore made in pursuance of these warrants, so far as such entries, locations, or surveys, interfere in any manner with those of persons claiming the same lands under entries, locations, or surveys, heretofore made, in pursuance of warrants granted by the State of Virginia to the officers and soldiers in the line of that State on Continental establishment.

SEC. 2. *And be it further enacted*, That in every case of interfering claims under military warrants, to lands within the territory so reserved by the State of Virginia, when either party to such claims shall lose, or be evicted from the land, every such party shall have a right, and hereby is authorized, to withdraw his, her, or their warrant, respectively, to the amount of such loss or eviction, and to enter, survey, and patent the same, on any vacant land within the bounds aforesaid, and in the same manner as other warrants may be entered, surveyed, and patented.

Approved, May 13, 1800.

An Act to enlarge the powers of Surveyors of the Revenue.

Be it enacted, &c., That whenever it shall appear to the surveyors of the revenue, appointed or to be appointed in any assessment district within the United States, under the act, entitled "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States," that any tract of land or dwelling-house, situated within his district, and directed by the said act to be included in the lists, thereby required to be rendered and kept, hath been omitted

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in the said lists, then, and in every such case, it shall be the duty of such surveyor, and he hereby is authorized and required, to inform himself of the value of such tract of land or dwelling-house, by entry, view, or other lawful ways and means, and to make a list and valuation thereof, in the form and manner prescribed in and by the said act, and to enter and record the said lists and valuation with and among the lists and valuations by him to be kept and recorded pursuant to the said act; and to charge the amount of the said valuation to the person or persons to whom the same ought to be charged, pursuant to the said act and to the act, entitled, "An act to lay and collect a direct tax within the United States;" and that where any assessor, no list having been rendered, shall have estimated any tract of unseated land to contain a greater number of acres than the said tract shall, by the patent or survey of the same, actually appear to contain, it shall appear to the surveyor of the assessment district in which the said land shall be situate, by the production of the said patent or survey thereof, that there has been a mistake in estimating the said number of acres, it shall be lawful for such surveyor to credit the proprietor or proprietors thereof with the number of acres so over-charged: *Provided*, That the said credit shall not operate to lessen the sum directed to be collected by virtue of the present law to lay and collect a direct tax: *And provided also*, That no credit shall be valid until the same shall have been approved by the inspector of the survey, or the supervisor of the district, if comprehending but one survey of inspection; and if any error has happened, by charging any person with being the proprietor of any tract or parcel of unseated land, who was not the owner thereof, on the first day of October, one thousand seven hundred and ninety-eight, or by assessing to any person any tract or parcel of unseated land more than once as proprietor thereof, it shall be lawful in all or any of these cases, for the surveyor of the district in which the said error shall have happened, to correct the same by giving the person so charged such credit in his account respecting the said land as may be just and equitable.

SEC. 2. *And be it further enacted*, That, for the services aforesaid, the surveyors of the revenue shall respectively be entitled to, and receive from the United States, the following compensations, that is to say: For every tract of land or dwelling-house, valued and recorded as aforesaid without entry and view, seventy-five cents; for every tract of land or dwelling-house so valued and recorded with entry and view, two dollars; for every mile of necessary travel in going to make such entry and view and returning, five cents; and that the accounts for the said compensations shall be presented to the supervisors of the districts respectively, and if allowed by them, shall be paid by them and credited to their accounts respectively, in the settlement thereof with the Treasury Department.

SEC. 3. *And be it further enacted*, That whenever any person shall have been charged, pursuant to the above mentioned acts or either of them,

or to this act, with the amount of the valuation of any tract of land or dwelling-house; and such person, or his or her legal representatives or assigns, shall afterwards in due course of law have been ejected from such land or dwelling-house, or have had a decision against him, her, or them, upon the title thereof, then, and in every such case, it shall be the duty of the surveyor of the revenue within whose assessment district the said land or dwelling-house shall be situated, and he is hereby authorized and required, on the application of such person, or of his or her legal representatives or assigns, as the case may be, and on the payment or tender by them, or any of them, of the sum of one dollar for every such tract of land or dwelling-house, which sum the said surveyor is hereby authorized to demand and receive in such case, to cancel the valuation on such land or dwelling-house, so far as respects the persons so applying, and to discharge him or her therefrom.

Approved May 13, 1800.

An Act to amend an act, entitled "An act to establish the Judicial Courts of the United States."

Be it enacted, &c., That jurors to serve in the courts of the United States shall be designated by lot, or otherwise, in each State or district respectively, according to the mode of forming juries to serve in the highest courts of law therein now practised; so far as the same shall render such designation practicable by the courts and marshals of the United States.

Approved, May 13, 1800.

An Act to appropriate a certain sum of money to defray the expense of holding a treaty or treaties with the Indians.

Be it enacted, &c., That a sum not exceeding fifteen thousand dollars be appropriated, to defray the expense of such treaty or treaties, as the President of the United States shall deem it expedient to hold with the Indians south of the river Ohio: *Provided*, nothing in this act contained shall be construed to admit an obligation on the part of the United States to extinguish, for the benefit of any State or individual citizen, Indian claims to any lands lying within the limits of the United States; and that the compensation to be allowed to any of the commissioners who may be appointed for negotiating such treaty or treaties, shall not exceed, exclusive of travelling expenses the rate of eight dollars per day during the time of actual service of such commissioner.

SEC. 2. *And be it further enacted*, That the sum aforesaid shall be paid out of any moneys in the Treasury of the United States, not otherwise appropriated.

Approved, May 13, 1800.

An Act directing the payment of a detachment of the militia under the command of Major Thomas Johnson, in the year one thousand seven hundred and ninety-four.

Be it enacted, &c., That the proper accounting officers of the Treasury be, and they are hereby,

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authorized to settle the accounts of the militia, who served on an expedition, commanded by Major Thomas Johnson, against the Indians, in the year one thousand seven hundred and ninety-four, and that the same be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, May 13, 1800.

An Act to retain a further sum on drawbacks, for the expenses incident to the allowance and payment thereof, and in lieu of stamp duties on debentures.

Be it enacted, &c., That, from and after the thirtieth day of June next, two and one-half per centum on the amount of all drawbacks, allowed or to be allowed by law, upon and for the re-exportation from the United States of goods, wares, or merchandise, imported thereinto, shall be retained for the use of the United States, by the collectors paying such drawbacks, respectively; and in addition to the sum of one and one quarter per centum, heretofore directed by law to be so retained.

Sec. 2. *And be it further enacted,* That in case of the re-exportation from the United States of goods, wares, and merchandise, imported thereinto in foreign ships or vessels, no part of the additional duty imposed by law on such goods, wares, and merchandise, on account of their importation in such ships or vessels, shall be allowed to be drawback; but that the whole of the said additional duty shall be retained, in manner aforesaid, in addition to the rate per centum by this and former acts directed to be retained.

Approved, May 13, 1800.

An Act to authorize certain expenditures, and to make certain appropriations for the year one thousand eight hundred.

Be it enacted, &c., That the Secretary of the Senate, and the Clerk of the House of Representatives, respectively, shall have allowed to them, in the settlement of their accounts with the Treasury Department, the expenses by them respectively incurred, pursuant to the directions of the joint committee of the two Houses, in the various measures adopted by the said committee for doing honor to the memory of George Washington, late President of the United States; and that a sum not exceeding three thousand two hundred dollars shall be and hereby is appropriated for defraying the said expenses.

Sec. 2. *And be it further enacted,* That the President of the United States shall be, and hereby is, authorized and empowered to cause to be given, during the present year, to the Choctaw nation of Indians, such presents, not exceeding the value of two thousand dollars, as he shall judge most suitable; and that the sum of two thousand dollars shall be and hereby is appropriated for that purpose.

Sec. 3. *And be it further enacted,* That the President of the United States shall be, and hereby is, authorized and empowered to cause to be expended a sum not exceeding five thousand dollars, for the reimbursement of such reasonable ad-

vances of money as have heretofore been, or before the first day of September next may be, made by consuls of the United States, in making and supporting the claims of American citizens for captured property, before the tribunals of foreign countries; and that the sum of five thousand dollars shall be and hereby is appropriated for that purpose.

Sec. 4. *And be it further enacted,* That the sum of forty-four thousand dollars shall be, and hereby is, appropriated for defraying the expense that has been, or during the present year may be, incurred by the payment of costs, in prize causes before the court of admiralty and court of appeals in England.

Sec. 5. *And be it further enacted,* That for defraying the expense incident to the visits of Indians to the seat of Government, the sum of seven thousand five hundred dollars shall be and hereby is appropriated.

Sec. 6. *And be it further enacted,* That for defraying, during the present year, the additional compensations granted in the present session to the Secretary of the Senate, and Clerk of the House of Representatives, and to the clerks in their respective offices, the sum of one thousand five hundred dollars shall be and hereby is appropriated.

Sec. 7. *And be it further enacted,* That for defraying the expenses incident, during the present year, to the establishment of the general stamp-office, including the salary of the superintendent of stamps, clerk hire, office rent, and all contingent expenses, the sum of four thousand dollars shall be and hereby is appropriated.

Sec. 8. *And be it further enacted,* That for defraying, during the present year, the expense incident to the establishment of the government of the Indiana Territory, including the salary of the governor, judges and secretary, and all contingent expenses, the sum of four thousand dollars shall be and hereby is appropriated.

Sec. 9. *And be it further enacted,* That for defraying the expense incident to the exploring of copper mines on Lake Superior, the sum of one thousand five hundred dollars shall be and hereby is appropriated.

Sec. 10. *And be it further enacted,* That there be appropriated for the present year, the sum of one hundred thousand dollars, to be applied to the fortification of the ports and harbors of the United States, in aid of the sums heretofore appropriated for that purpose and remaining unexpended.

Sec. 11. *And be it further enacted,* That the aforesaid appropriations shall be paid out of any money in the Treasury of the United States not otherwise appropriated.

Approved, May 13, 1800.

An Act to lay additional duties on certain articles imported.

Be it enacted, &c., That from and after the thirtieth day of June next, the following duties, in addition to those now in force, and payable on the several articles hereinafter enumerated, shall be

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laid, levied, and collected upon those articles respectively, at their importation into the United States from any foreign country or place; that is to say: upon all brown sugar, one-half cent per pound; upon all sugar candy, two cents and one-half per pound; upon all molasses, one cent per gallon; and upon all goods, wares, and merchandises, now paying a duty of ten per cent. ad valorem, two and one-half per centum ad valorem.

Sec. 2. *And be it further enacted*, That from and after the thirtieth day of June next, the duties now imposed and payable on wines, imported into the United States from any foreign port or place, shall cease and be abolished; and that in lieu thereof the following duties shall thenceforth be laid, levied, and collected upon all wines so imported in casks, bottles, or other vessels; that is to say: Upon all Malmsey, Madeira, and London Particular Madeira wine, fifty-eight cents per gallon; upon all other Madeira wine, fifty cents per gallon; upon all Burgundy, Champaign, Rhenish, and Tokay wine, forty-five cents per gallon; upon all Sherry wine, forty cents per gallon; upon all Saint Lucar wine, forty cents per gallon; upon all Claret and other wines not enumerated, when imported in bottles or cases, thirty-five cents per gallon; upon all Lisbon, Oporto, and other Portugal wines, thirty cents per gallon; upon all Teneriffe, Fayal, Malaga, Saint George, and other Western Island wine, twenty cents per gallon; and upon all other wines when imported, otherwise than in bottles or cases, twenty-three cents per gallon.

Sec. 3. *And be it further enacted*, That an addition of ten per centum shall be made to the several rates of duties above specified and imposed, in respect to all such goods, wares, and merchandises as aforesaid, as shall after the said thirtieth day of June be imported in ships or vessels not of the United States.

Sec. 4. *And be it further enacted*, That the duties laid by this act shall be levied and collected in the same manner, and under the same regulations and allowances as to drawbacks, mode of security, and time of payment, respectively, with the several duties now in force on the respective articles hereinbefore enumerated.

Sec. 5. *And be it further enacted*, That on account of the additional duties laid on brown sugar and molasses by this act, the following sums respectively shall, from and after the thirty-first day of December next, be added to the drawbacks now allowed by law, on sugar refined within the United States and exported therefrom, and on spirits distilled from molasses within the United States and exported therefrom, that is to say: On all sugar so refined and exported, one cent per pound; and on all spirits so distilled and exported, one cent per gallon; which additional drawbacks shall be allowed and paid according to the regulations now established by law, respecting the present drawbacks allowed on the said articles.

Sec. 6. *And be it further enacted*, That the proceeds of the duties, laid by this act, shall be solely appropriated and applied for the discharge of the interest and principal of the debts of the

United States, heretofore contracted, or to be contracted during the present year.

Approved, May 13, 1800.

An Act appointing the time, and directing the place of the next meeting of Congress.

Be it enacted, &c., That the session of Congress next ensuing the present shall be held at the city of Washington, in the District of Columbia, and said session shall commence on the third Monday of November, one thousand eight hundred.

Approved, May 13, 1800.

An Act to make provision relative to rations for Indians, and to their visits to the seat of Government.

Be it enacted, &c., That the President of the United States shall be, and hereby is, authorized and empowered to cause such rations as he shall judge proper, and as can be spared from the army provisions without injury to the service, to be issued, under such regulations as he shall think fit to establish, to Indians who may visit the military posts of the United States on the frontiers, or within their respective nations.

Sec. 2. *And be it further enacted*, That the President of the United States shall be, and hereby is, further authorized and empowered to cause to be defrayed, on the part of the United States, the reasonable expenses of such Indians as may from time to time visit the seat of Government thereof, for their journeys to, stay at, and return from the same; and also to cause to be given to such Indians, during their stay as aforesaid, such presents as he shall judge necessary.

Sec. 3. *And be it further enacted*, That a separate account of all rations issued, and expenses defrayed as aforesaid, and of the expenditures, occasioned by such presents as are aforesaid, shall be kept at the Department of War.

Approved, May 13, 1800.

An Act supplementary to the act to suspend part of an act, entitled "An act to augment the Army of the United States, and for other purposes."

Be it enacted, &c., That it shall be lawful for the President of the United States to suspend any further military appointments, under the act to augment the army of the United States, and for other purposes; and under the ninth section of the act for the better organizing of the troops of the United States, and for other purposes; according to his discretion, having reference to economy and the good of the service.

Sec. 2. *And be it further enacted*, That the President of the United States shall be, and hereby is, authorized and empowered to discharge, on or before the fifteenth day of June next, all such officers, non-commissioned officers, and privates, as have heretofore been appointed, commissioned, or raised, under and by virtue of the said acts, or either of them, except the engineers, inspector of artillery, and inspector of fortifications: *Provided always*, That nothing in this act contained shall be con-

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strued to authorize any reduction of the first four regiments of infantry, the two regiments of artillery and engineers, the two troops of light dragoons, or of the general and other staff, authorized by the several laws for the establishing and organizing of the aforesaid corps.

Sec. 3. *And be it further enacted*, That to each officer, non-commissioned officer, and private, who shall be discharged from service by virtue of this act, there shall be allowed and paid, in addition to the pay and allowances to which they are now entitled by law, a sum of money equal to three months' pay of such officer, non-commissioned officer, and private, respectively.

Approved, May 14, 1800.

An Act supplementary to the act establishing the Mint, and regulating the coins of the United States.

Be it enacted, &c., That until the fourth day of March, one thousand eight hundred and one, the Mint shall remain in the city of Philadelphia, and be carried on as heretofore under the laws now in force; any law to the contrary notwithstanding.

Approved, May 14, 1800.

Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, That a marble monument be erected by the United States, in the Capitol, at the City of Washington, and that the family of General Washington be requested to permit his body to be deposited under it; and that the monument be so designed as to commemorate the great events of his military and political life.

And be it further resolved, That there be a funeral procession from Congress Hall to the German Lutheran Church, in honor of the memory of General George Washington, on Thursday the twenty-sixth instant, and that an oration be prepared at the request of Congress to be delivered before both Houses on that day; and that the President of the Senate, and Speaker of the House of Representatives, be desired to request one of the members of Congress to prepare and deliver the same.

And be it further resolved, That it be recommended to the people of the United States to wear crape on the left arm, as mourning, for thirty days.

And be it further resolved, That the President of the United States be requested to direct a copy of these resolutions to be transmitted to Mrs. Washington, assuring her of the profound respect Congress will ever bear to her person and character; of their condolence on the late afflicting dispensation of Providence; and intreating her assent to the interment of the remains of General George Washington, in the manner expressed in the first resolution.

And be it further resolved, That the President of the United States be requested to issue a proclamation, notifying to the people throughout the United States the recommendation contained in the third resolution.

Approved, December 24, 1799.

Resolution on the death of General Washington.

Resolved, &c., That it be recommended to the people of the United States to assemble on the twenty-second day of February next, in such numbers and manner as may be convenient, publicly to testify their grief for the death of General George Washington, by suitable eulogies, orations, and discourses, or by public prayers.

And it is further resolved, That the President be requested to issue a proclamation for the purpose of carrying the foregoing resolution into effect

Approved, January 6, 1800.

Resolved, &c., That the Secretary of State be, and he is hereby, authorized and directed to procure and transmit to the Governor of the State of North Carolina, a number of the copies of the laws of the United States, equal to the number which the Secretary was heretofore authorized to transmit to the Governor of the said State, by an act, entitled "An act for the more general promulgation of the laws of the United States," to be deposited and distributed agreeably to the provisions of the said act, for the use and information of the citizens of the United States within the said State.

Approved, February 3, 1800.

Resolved, &c., That the President of the United States be requested to present to Captain Thomas Truxtun, a golden medal, emblematical of the late action between the United States' frigate *Constellation*, of thirty-eight guns, and the French ship of war *La Vengeance*, of fifty-four; in testimony of the high sense entertained by Congress of his gallantry and good conduct in the above engagement, wherein an example was exhibited by the captain, officers, sailors, and marines, honorable to the American name, and instructive to its rising navy.

And it is further resolved, That the conduct of James Jarvis, a midshipman in said frigate, who gloriously preferred certain death to an abandonment of his post, is deserving of the highest praise, and that the loss of so promising an officer is a subject of national regret.

Approved, March 29, 1800.

Resolution respecting the copper mines on the south side of Lake Superior.

Resolved, &c., That the President of the United States be authorized to employ an agent, who shall be instructed to collect all material information relative to the copper mines on the south side of Lake Superior, and to ascertain whether the Indian title to such lands as might be required for the use of the United States, in case they should deem it expedient to work the said mines, be yet subsisting, and, if so, the terms on which the same can be extinguished: And that the said agent be instructed to make report to the President in such time as the information he may collect may be laid before Congress at their next session.

Approved, April 16, 1800.

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ACTS PASSED AT THE SECOND SESSION OF THE SIXTH CONGRESS, BEGUN AND HELD,
AT THE CITY OF WASHINGTON, NOVEMBER 17, 1800.

AN ACT extending the privilege of franking letters to the delegate from the Territory of the United States Northwest of the river Ohio; and making provision for his compensation.

Be it enacted, by the Senate and House of Representatives of the United States of America, in Congress assembled, That the present delegate to Congress from the Territory of the United States Northwest of the river Ohio, and every future delegate from the said Territory, shall be entitled to the privilege of sending and receiving letters, free of postage, on the same terms, and under the same restrictions, as are provided for the members of the Senate and of the House of Representatives of the United States, by the act entitled "An act to establish the Post Office of the United States."

SEC. 2. *And be it further enacted,* That the present delegate from the aforesaid Territory be authorized to receive, free of postage, under the said restrictions, any letters directed to him, and which shall have arrived at the seat of Government, prior to the passage of this act.

SEC. 3. *And be it further enacted,* That the said delegate, and every future delegate from the Territory of the United States Northwest of the river Ohio, shall receive, for his travelling expenses and attendance in Congress, the same compensation as is, or may be allowed, by law, to the members of the House of Representatives of the United States; to be certified and paid in the same manner.

THEODORE SEDGWICK,
Speaker of the House of Representatives.
THOMAS JEFFERSON,
Vice President of the United States,
and President of the Senate.

Approved, December 15, 1800.

JOHN ADAMS,
President of the United States.

An Act to provide for the erection and support of a light-house on Cape Poge, at the northeasterly part of Martha's Vineyard.

Be it enacted, &c., That the Secretary of the Treasury shall be, and he is hereby, authorized and directed to cause a sufficient light-house to be erected on Cape Poge, (so called,) on Martha's Vineyard, in the State of Massachusetts, and to appoint a keeper, and otherwise to provide for the support of such light-house, at the expense of the United States: *Provided,* That sufficient land for the accommodation of such light house, together with the jurisdiction thereof, shall be duly and legally granted to, and vested in the United States.

SEC. 2. *And be it further enacted,* That there shall be, and hereby is, appropriated for the erection of said light-house on Cape Poge, a sum not exceeding two thousand dollars, to be paid out of

any moneys which may be in the Treasury of the United States, not otherwise appropriated.
Approved, January 30, 1801.

An Act to provide for the more convenient organization of the Courts of the United States.

Be it enacted, &c., That, from and after the next session of the Supreme Court of the United States, the said court shall be holden by the justices thereof, or any four of them, at the City of Washington, and shall have two sessions in each and every year thereafter, to commence on the first Monday of June and December, respectively; and that if four of the said justices shall not attend within ten days after the times, hereby appointed for the commencement of the said sessions, respectively, the said court shall be continued over till the next stated session thereof: *Provided always,* That any one or more of the said justices, attending as aforesaid, shall have power to make all necessary orders touching any suit, action, appeal, writ of error, process, pleadings, or proceeding, returned to the said court or depending therein, preparatory to the hearing, trial or decision of such action, suit, appeal, writ of error, process, pleadings, or proceedings.

SEC. 2. *And be it further enacted,* That the said court shall have power, and is hereby authorized, to issue writs of prohibition, mandamus, scire facias, habeas corpus, certiorari, procedendo, and all other writs not specially provided for by statute, which may be necessary for the exercise of its jurisdiction, and agreeable to the principles and usages of law.

SEC. 3. *And be it further enacted,* That, from and after the next vacancy that shall happen in the said court, it shall consist of five justices only; that is to say, of one chief justice, and four associate justices.

SEC. 4. *And be it further enacted,* That, for the better establishment of the circuit courts of the United States, the said States shall be, and hereby are, divided into districts, in manner following; that is to say, one to consist of that part of the State of Massachusetts, which is called the district of Maine, and to be called the district of Maine; one to consist of the State of New Hampshire, and to be called the district of New Hampshire; one to consist of the remaining part of the State of Massachusetts, and to be called the district of Massachusetts; one to consist of the State of Rhode Island and Providence Plantations, and to be called the district of Rhode Island; one to consist of the State of Connecticut, and to be called the district of Connecticut; one to consist of the State of Vermont, and to be called the district of Vermont; one to consist of that part of the State of New York which lies north of the counties of Dutchess and Ulster, and to be called the district of Albany;

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one to consist of the remaining part of the State of New York, and to be called the district of New York; one to consist of the State of New Jersey and to be called the district of Jersey; one to consist of that part of the State of Pennsylvania which lies east of the river Susquehanna, and the north-east branch thereof, to the line betwixt Northumberland and Luzerne counties; thence westwardly along said line, betwixt Northumberland and Luzerne, and between Luzerne and Lycoming counties, until the same strikes the line of the State of New York, and to be called the eastern district of Pennsylvania; one to consist of the remaining part of the State of Pennsylvania, and to be called the western district of Pennsylvania; one to consist of the State of Delaware, and to be called the district of Delaware; one to consist of the State of Maryland, and to be called the district of Maryland; one to consist of that part of the State of Virginia, which lies to the eastward of a line to be drawn from the river Potomac at Harper's Ferry, along the Blue Ridge, with the line which divides the counties on the east side thereof from those on the west side thereof, to the North Carolina line, to be called the eastern district of Virginia; one to consist of the remaining part of the said State of Virginia, to be called the western district of Virginia; one to consist of the State of North Carolina, and to be called the district of North Carolina; one to consist of the State of South Carolina, and to be called the district of South Carolina; one to consist of the State of Georgia, and to be called the district of Georgia; one to consist of that part of the State of Tennessee which lies on the east side of Cumberland mountain, and to be called the district of East Tennessee; one to consist of the remaining part of said State, and to be called the district of West Tennessee; one to consist of the State of Kentucky, and to be called the district of Kentucky; and one to consist of the Territory of the United States Northwest of the Ohio, and the Indiana Territory, and to be called the district of Ohio.

SEC. 5. *And be it further enacted*, That where any two adjoining districts of the United States shall be divided from each other, in whole or in part, by any river, bay, water, water-course, or mountain, the whole width of such river, bay, water, water-course, or mountain, as the case may be, shall be taken and deemed, to all intents and purposes, to be within both of the districts so to be divided thereby.

SEC. 6. *And be it further enacted*, That the said districts shall be classed into six circuits, in manner following; that is to say: the first circuit shall consist of the districts of Maine, New Hampshire, Massachusetts, and Rhode-Island; the second, of the districts of Connecticut, Vermont, Albany, and New York; the third, of the districts of Jersey, the eastern and western districts of Pennsylvania and Delaware; the fourth, of the district of Maryland, and the eastern and western districts of Virginia; the fifth, of the districts of North Carolina, South Carolina and Georgia; and the sixth, of the districts of East Tennessee, West Tennessee, Kentucky, and Ohio.

SEC. 7. *And be it further enacted*, That there shall be in each of the aforesaid circuits, except the sixth circuit, three judges of the United States, to be called circuit judges, one of whom shall be commissioned as chief judge; and that there shall be a circuit court of the United States, in and for each of the aforesaid circuits, to be composed of the circuit judges within the five first circuits respectively, and in the sixth circuit, by a circuit judge, and the judges of the district courts of Kentucky and Tennessee; the duty of all of whom it shall be to attend, but any two of whom shall form a quorum; and that each and every of the said circuit courts shall hold two sessions annually, at the times and places following, in and for each district contained within their several circuits respectively: that is to say, the circuit court of the first circuit, at Providence, on the eighth day of May, and at Newport, on the first day of November, in and for the district of Rhode Island; at Boston, in and for the district of Massachusetts, on the twenty-second day of May and the fifteenth day of October; at Portsmouth on the eighth day of June, and at Exeter on the twenty-ninth day of September, in and for the district of New Hampshire; in and for the district of Maine, at Portland on the fifteenth day of June, and at Wiscasset on the twenty-second day of September. The circuit court of the second circuit, at New Haven on the fifteenth day of April; and at Hartford, on the twenty-fifth day of September, in and for the district of Connecticut; at Windsor, on the fifth day of May, and at Rutland on the fifteenth day of October, in and for the district of Vermont; at the city of Albany, in and for the district of Albany, on the twentieth day of May and twenty-fifth day of October; at the city of New York, in and for the district of New York, on the fifth day of June and the tenth day of November. The circuit court of the third circuit, at Trenton, in and for the district of Jersey, on the second days of May and October; at the city of Philadelphia, in and for the Eastern district of Pennsylvania, on the eleventh day of May and eleventh day of October; at Bedford, in and for the Western district of Pennsylvania, on the twenty-fifth day of June and twenty-fifth day of November; and at Dover, in and for the district of Delaware, on the third day of June and twenty-seventh day of October. The circuit court of the fourth circuit at Baltimore, in and for the district of Maryland, on the twentieth day of March and fifth day of November; at Lexington in Rockbridge county, in and for the Western district of Virginia, on the fifth day of April and twentieth day of November; and at the city of Richmond, in and for the eastern district of Virginia, on the twenty-fifth day of April, and fifth day of December. The circuit court of the fifth circuit, at Raleigh, in and for the district of North Carolina, on the first day of June and the first day of November; at Charleston on the sixth day of May, and at Columbia on the thirtieth day of November, in and for the district of South Carolina; at Savannah on the tenth day of April, and at Augusta on the fifteenth day of December, in and for the district of Georgia; and the circuit court of the sixth

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circuit at Knoxville, in and for the district of East Tennessee, on the twenty-fifth day of March and twenty-fifth day of September; at Nashville, in and for the district of West Tennessee, on the twentieth day of April and twentieth day of October; and at Bairdstown, in and for the district of Kentucky, on the fifteenth day of May and fifteenth day of November; and at Cincinnati in and for the district of Ohio, on the tenth day of June and on the tenth day of December; and so on the several days and at the several places aforesaid, in each and every year afterwards: *Provided always*, That when any of the said days shall happen on Sunday, then the said court hereby directed to be holden on such day, shall be holden on the next day thereafter; and provided also, that there shall be appointed, in the sixth circuit, a judge of the United States, to be called a circuit judge, who together with the district judges of Tennessee and Kentucky, shall hold the circuit courts, hereby directed to be holden, within the said circuit; and that whenever the office of district judge, in the districts of Kentucky and Tennessee, respectively, shall become vacant, such vacancies shall respectively be supplied by the appointment of two additional circuit judges, in the said circuit, who, together with the circuit judge first aforesaid, shall compose the circuit court of the said circuit.

SEC. 8. *Provided always, and be it further enacted*, That the said circuit courts hereby established shall have power, and hereby are authorized, to hold special sessions, for the trial of criminal causes, at any other time or times than is hereby directed, at their discretion.

SEC. 9. *And provided also, and be it further enacted*, That if, in the opinion of any judge of any of the said circuit courts, it shall be dangerous to hold the next stated session of such court, for any district within the circuit to which such judge shall belong, at the place by law appointed for holding the same; it shall be lawful for such judge to issue his order, under his hand and seal, to the marshal of such court, directing him to adjourn the said session, to such other place within the same district as the said judge shall deem convenient; which said marshal, thereupon, shall adjourn the said court pursuant to such order, by making, in one or more public papers, printed within the said district, publication of such order and adjournment, from the time when he shall receive such order, to the time appointed by law for commencing such stated session; and that the court so to be held, according to, and by virtue of such adjournment, shall have the same powers and authorities, and shall proceed in the same manner, as if the same had been held at the place appointed by law for that purpose.

SEC. 10. *And be it further enacted*, That the circuit courts shall have, and hereby are invested with, all the powers heretofore granted by law to the circuit courts of the United States, unless where otherwise provided by this act.

SEC. 11. *And be it further enacted*, That the said circuit courts respectively shall have cognizance of all crimes and offences cognizable under the

authority of the United States, and committed within their respective districts, or upon the high seas; and also of all cases in law or equity, arising under the Constitution and laws of the United States, and treaties made, or which shall be made, under their authority; and also of all actions, or suits of a civil nature, at common law, or in equity, where the United States shall be plaintiffs or complainants; and also of all seizures on land or water, and all penalties and forfeitures, made, arising or accruing, under the laws of the United States; which cognizance of all penalties and forfeitures, shall be exclusively of the State courts, in the said circuit courts, where the offence, by which the penalty or forfeiture is incurred shall have been committed within fifty miles of the place of holding the said courts; and also of all actions or suits, matters or things, cognizable by the judicial authority of the United States, under and by virtue of the Constitution thereof, where the matter in dispute shall amount to four hundred dollars, and where original jurisdiction is not given by the Constitution of the United States to the Supreme Court thereof, or exclusive jurisdiction by law to the district courts of the United States: *Provided always*, That in all cases where the title or bounds of land shall come into question, the jurisdiction of the said circuit courts shall not be restrained, by reason of the value of the land in dispute.

SEC. 12. *And be it further enacted*, That the said circuit courts, respectively, shall have cognizance, concurrently with the district courts, of all cases which shall arise, within their respective circuits, under the act to establish a uniform system of bankruptcy throughout the United States; and that each circuit judge, within his respective circuit, shall and may perform all and singular the duties enjoined by the said act, upon a judge of a district court: And that the proceedings under a commission of bankruptcy, which shall issue from a circuit judge, shall in all respects be conformable to the proceedings under a commission of bankruptcy, which shall issue from a district judge, mutatis mutandis.

SEC. 13. *And be it further enacted*, That where any action or suit shall be, or shall have been commenced, in any State court within the United States, against an alien, or by a citizen or citizens of the State in which such suit or action shall be, or shall have been commenced against a citizen or citizens of another State, and the matter in dispute, except in cases where the title or bounds of land shall be in question, shall exceed the sum or value of four hundred dollars, exclusive of costs, and the defendant or defendants in such suit or action shall be personally served with the original process therein, or shall appear thereto; or where, in any suit or action, so commenced or to be commenced, final judgment, for a sum exceeding four hundred dollars, exclusive of costs, shall have been rendered in such State court, against such defendant or defendants, without return of personal service on him, her, or them, of the original process in such suit or action, and without an appearance thereto by him, her, or them, and a writ of error, or writ of review, shall be brought by

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such defendant or defendants, in such State court, to reverse the said judgment; or where any suit or action shall have been, or shall be commenced in any such court, against any person or persons, in any case arising under the Constitution or laws of the United States, or treaties made or to be made under their authority; then, and in any of the said cases, it shall be lawful for the defendant or defendants, in such suit or action, at the time of entering his, her, or their appearance thereto, and for the plaintiff or plaintiffs in such writ of error, or writ of review, at the time when such writ shall be returnable, to file in such court a petition for the removal of such suit, action, writ of error, or writ of review, to the next circuit court of the United States, hereby directed to be holden in and for the district within which such State court shall be holden, and to offer to such State court good and sufficient surety for entering, in such circuit court, on the first day of its next ensuing session, true copies of the process and proceedings, in such action, suit, writ of error, or writ of review, and also for his, her, or their, appearance in the said circuit court, at the period aforesaid, and then and there entering special bail, in the said suit or action, if special bail was originally demandable and demanded therein; whereupon it shall be the duty of the said State court to accept the said security, and to stay all further proceedings in such suit, action, writ of error, or writ of review, and to discharge any bail that may have been given therein: and that the said copies being filed as aforesaid in such circuit court, and special bail, in manner aforesaid, being given therein, such suit, action, writ of error, or writ of review, shall be therein proceeded on, tried, heard, and determined, in the same manner as if there originally commenced or brought: *Provided always*, That any attachment of the goods or estate of the defendant, by the original process in such suit or action, shall hold the goods or estate so attached to answer the final judgment in the said circuit court, in the same manner as by the laws of the State they would have been holden, to answer the final judgment, had it been rendered by the court in which the suit or action was commenced.

Sec. 14. *And be it further enacted*, That when in any suit or action, commenced, or to be commenced, in any State court within the United States, between citizens of the same State, the title or bounds of land shall come into question, it shall be lawful for either party, before trial, to state to the said court, and make affidavit if thereby required, that he, she, or they, doth or do claim under, and at the hearing or trial shall rely upon a right or title to the lands in dispute, under a grant or grants from a State other than that wherein such suit or action is, or shall be pending; and to produce to the said court the original grant or grants so claimed under, or exemplifications thereof, except in cases where the loss of public records shall put it out of his, her, or their power so to do; and to move that the adverse party do inform the said court, forthwith, whether he, she, or they, doth or do claim the land in dispute, under a grant

or grants from the State wherein such suit or action is, or shall be pending; whereupon the said adverse party shall give such information, or otherwise not be allowed to plead, or give in evidence, in the cause any such grant; and that if it shall appear from such information, that the said adverse party doth claim the said lands, under any such grant, or grants, then it shall be lawful for the party moving for such information, if plaintiff or complainant in the said suit or action, to remove the same, by motion, to the next circuit court of the United States, hereby directed to be holden in and for the district within which such State court shall be holden; and if defendant in the said suit or action, then to remove the same, as aforesaid, in the same manner, and under the like regulations, terms, and conditions, as are provided in and by the preceding section of this act, in the cases of actions thereby directed to be removed; and that the said circuit courts respectively, into which such suit or action shall be removed, pursuant to the provisions in this section contained, shall proceed in, try, hear and determine the same, in like manner as if therein brought, by original process: *Provided always*, That neither party, so removing any suit or action, shall be allowed, on the trial or hearing thereof, to plead, give evidence of, or rely on, any other title than that by him, her, or them, so stated as aforesaid, as the ground of his, her, or their claim.

Sec. 15. *And be it further enacted*, That any one judge of any of the said circuit courts shall be, and hereby is, authorized and empowered to hold the same, from day to day, not exceeding five days, to impanel and charge the grand jury, to order process on any indictment or presentment found in the said court; to direct subpoenas for witnesses to attend the same, and the requisite process on the non-attendance of witnesses or jurors; to receive any presentment or indictment from the grand jury; to take recognizance for the attendance of any witness, or for the appearance of any person, presented or indicted; to award and issue process, and order commitment for contempts; to commit any person presented or indicted, for want of security or otherwise; to order publication of testimony; to issue commissions for the examination of witnesses, where allowable by law; to grant rules and orders of survey; to take order, where necessary, relative to jurors, to serve at the next stated session of the said court; to direct the examination of witnesses *de bene esse*, where allowed by law; to make rules of reference, by consent of parties; and to grant continuances on the motion of either party, upon such terms and conditions, as shall be agreeable to practice and the usages of law; and that if some other judge of the said court shall not attend the same within five days after the commencement thereof, inclusive, then the said court shall, by virtue of this act, be continued over to the next stated session thereof; in which case, all writs, process, and recognizances, returned and returnable to the said court, and all actions, suits, process, pleadings, and other proceedings, of what nature or kind soever, depending before the said court, shall, by virtue of this

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act, be continued to the next stated session of the same.

SEC. 16. *And be it further enacted*, That no person shall be arrested in one of the said districts, for trial in another, before any of the said circuit courts, in any civil action; and that no civil action or suit shall be brought before any of the said courts, by any original process, against an inhabitant of the United States, in any other district than that whereof he is an inhabitant, or in which he shall be found at the time of serving the writ; nor shall any district or circuit court have cognizance of any suit to recover the contents of any promissory note, or other chose in action, in favor of an assignee, unless a suit might have been prosecuted in such court to recover the said contents, if no assignment had been made, except in cases of foreign bills of exchange.

SEC. 17. *And be it further enacted*, That the trials of all issues of fact, before any of the circuit courts hereby established, except in cases of equity, and admiralty, and maritime jurisdiction, shall be by jury.

SEC. 18. *And be it further enacted*, That any judge of the said circuit courts shall be, and hereby is, authorized and empowered, in all cases cognizable by the circuit court, whereof he shall be a judge, to grant writs of ne-exeat, and writs of injunction to stay waste, or to stay proceedings at law, on any judgment rendered by such circuit court, upon the like terms and conditions as such writs may be now granted, by the justices of the Supreme Court of the United States.

SEC. 19. *And be it further enacted*, That if, in the opinion of any circuit judge, of the circuit within which such district may be situated, the life or lives of any person or persons, confined in the prison of such district, under or by virtue of any law of the United States, shall be in imminent danger, arising from the place of such confinement, it shall, in such case, be lawful for such judge, and he is hereby authorized and empowered, to direct the marshal of such district to remove, or cause to be removed, the person or persons so confined to the next adjacent prison, there to be confined until he, she, or they, may safely be removed back to the place of his, her, or their first confinement; and that the said removals shall be at the expense of the United States.

SEC. 20. *And be it further enacted*, That all actions, suits, process, pleadings, and other proceedings of what nature or kind soever, depending or existing in any of the present circuit courts of the United States, or in any of the present district courts of the United States, acting as circuit courts, shall be, and hereby are, continued over to the circuit courts established by this act, in manner following, that is to say: all such as shall, on the fifteenth day of June next, be depending and undetermined, or shall then have been commenced and made returnable before the district court of Maine, acting as a circuit court, to the next circuit court hereby directed to be holden within and for the district of Maine; all such as shall be depending and undetermined before the circuit court for the district of New Hampshire, to the

next circuit court hereby directed to be holden within and for the district of New Hampshire; all such as shall be depending and undetermined before the circuit court for the district of Massachusetts, to the next circuit court hereby directed to be holden within and for the district of Massachusetts; all such as shall be depending and undetermined before the circuit court of the district of Rhode Island, to the next circuit court hereby directed to be holden within and for the district of Rhode Island; all such as shall be depending or undetermined before the circuit court for the district of Connecticut, to the next circuit court hereby directed to be holden within and for the district of Connecticut; all such as shall be depending and undetermined before the circuit court for the district of Vermont, to the next circuit court hereby directed to be holden within and for the district of Vermont; all such as shall be depending and undetermined before the circuit court for the district of New York, to the next circuit court hereby directed to be holden within and for the district of New York; all such as shall be depending and undetermined before the circuit court for the district of New Jersey, to the next circuit court hereby directed to be holden within and for the district of New Jersey; all such as shall be depending and undetermined before the circuit court for the district of Pennsylvania, to the next circuit court hereby directed to be holden within and for the eastern district of Pennsylvania; all such as shall be depending and undetermined before the circuit court for the district of Delaware, to the next circuit court hereby directed to be holden within and for the district of Delaware; all such as shall be depending and undetermined before the circuit court for the district of Maryland, to the next circuit court hereby directed to be holden within and for the district of Maryland; all such as shall be depending and undetermined before the circuit court for the district of Virginia, to the next circuit court hereby directed to be holden within and for the eastern district of Virginia; all such as shall be depending and undetermined before the circuit court for the district of North Carolina, to the next circuit court hereby directed to be holden within and for the district of North Carolina; all such as shall be depending and undetermined before the circuit court for the district of South Carolina, to the next circuit court hereby directed to be holden within and for the district of South Carolina; all such as shall be depending and undetermined before the circuit court for the district of Georgia, to the next circuit court hereby directed to be holden within and for the district of Georgia; all such as shall be depending and undetermined before the district court of Tennessee, acting as a circuit court, to the next circuit court hereby directed to be holden within and for the district of East Tennessee; all such as shall be depending and undetermined before the district court of Kentucky, acting as a circuit court, to the next circuit court hereby directed to be holden within and for the district of Kentucky; and shall there be equally regular and effectual, and shall be proceeded in in the same

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manner as they could have been if this act had not been made.

SEC. 21. *And be it further enacted,* That for the better despatch of the business of district courts of the United States, in the districts of Jersey, Maryland, Virginia, and North Carolina, additional district courts shall be established therein in manner following, that is to say: The said district of Jersey shall be divided into two districts; one to consist of that part thereof which is called East New Jersey, and to be called the district of East Jersey; a district court in and for which shall be holden at New Brunswick, by the district judge of the district of Jersey, on the fourth Tuesday in May, and on the fourth Tuesday in November, in each and every year; and one other to consist of the remaining part of the said district of Jersey, and to be called the district of West Jersey, a district court in and for which shall be holden at Burlington, by the district judge last aforesaid, on the fourth Tuesday in February, and on the fourth Tuesday in August, in each and every year: And a new district shall be established in the districts of Maryland and Virginia, to consist of the Territory of Columbia, of all that part of the district of Maryland, which lies west and southwest of the river Patuxent, and of the western branch thereof, and south of the line which divides the county of Montgomery in the last mentioned district, from the county of Frederick, and of a line to be drawn from the termination of the last mentioned line, a northeast course to the western branch of the Patuxent; and of all that part of the district of Virginia which lies north of the river Rappahannock, and east of the line which divides the counties of Fauquier and Loudon, in the last mentioned district, from the counties of Fairfax, Prince William, and Stafford; which new district shall be called the district of Potomac, and a district court in and for the same shall be holden at Alexandria, by the district judge of the district of Maryland, on the first Tuesday in April, and the first Tuesday in October, in each and every year: And there shall be a new district established in the district of Virginia, to be called the district of Norfolk, and to consist of all that part of the said district of Virginia, which is contained within the counties of Isle of Wight, Nansemond, Norfolk, Princess Anne, James City, New Kent, Warwick, York, Elizabeth City, Gloucester, Matthews, Middlesex, Accomac, and Northampton; a district court in and for which district of Norfolk shall be holden at Norfolk by the district judge of the district of Virginia, on the first Tuesday in February, on the first Tuesday in May, on the first Tuesday in August, and on the first Tuesday in November, in each and every year: And the district of North Carolina shall be divided into three districts; one to consist of all that part thereof, which, by the laws of the State of North Carolina, now forms the districts of Edenton and Halifax; which district shall be called the district of Albemarle, and a district court in and for the same shall be holden at Edenton, by the district judge of the district of North Carolina, on the third Tuesday in April,

on the third Tuesday in August, and on the third Tuesday in December, in each and every year; one other to be called the district of Pamptico, and to consist of all that part of the district of North Carolina aforesaid, which, by the laws of the said State, now forms the district of Newbern, and Hillsborough, together with all that part of the district of Wilmington which lies to the northward and eastward of the river called New river, and for which district of Pamptico, a district court shall be holden at Newbern, by the district judge last aforesaid, on the first Tuesday in April, on the first Tuesday in August, and on the first Tuesday in December, in each and every year: And one other, to consist of the remaining part of the said district of North Carolina, and to be called the district of Cape Fear, in and for which a district court shall be holden at Wilmington, by the district judge last aforesaid, on the last Tuesday in March, on the last Tuesday in July, and on the last Tuesday in November, in each and every year; which said courts, hereby directed to be holden, shall severally and respectively have and exercise within their several and respective districts the same powers, authority, and jurisdiction, in all cases and respects whatsoever, which are vested by law in the district courts of the United States.

SEC. 22. *And be it further enacted,* That there shall be clerks for each of the said courts, to be appointed by the judge thereof, which clerks shall reside and keep the records of the said courts, at the places of holding the courts, whereto they respectively shall belong, and shall perform the same duties, and be entitled to and receive the same emoluments and fees, which are established by law for the clerks of the district courts of the United States respectively; and that the marshals and attorneys of the United States, for the districts which are hereby divided, or within the limits of which new districts are hereby erected, shall continue to be marshals and attorneys for the courts hereby appointed to be holden within the limits of their present districts respectively, and shall have, exercise, and perform, within the jurisdictions of those courts respectively, all the powers and duties, and receive all the fees and emoluments, appointed and established by law for the marshals and attorneys of the United States.

SEC. 23. *And be it further enacted,* That the stated sessions of the district court of the district of Maryland shall hereafter be holden in Baltimore only.

SEC. 24. *And be it further enacted,* That the district courts of the United States, in and for the districts of Tennessee and Kentucky, shall be, and hereby are, abolished; and that all and singular the powers, authority, and jurisdiction, of the said courts respectively, shall be and hereby are vested in, and shall be exercised by the circuit courts, by this act directed to be holden in and for the districts of East Tennessee, West Tennessee, and Kentucky, respectively, within the limits of their respective jurisdictions; and that the circuit judges to be appointed for the sixth circuit aforesaid, severally, shall be invested with, possess, and ex-

ercise, all and singular the powers now vested by law in the district judges of the United States.

SEC. 25. *And be it further enacted*, That, in case of the inability of the district judge of either of the districts of the United States to perform the duties of his office, and satisfactory evidence thereof being shown to the circuit court, in and for such district, it shall be the duty of such circuit court, from time to time, as occasion may require, to direct one of the judges of said circuit court to perform the duties of such district judge, within and for said district, for and during the period the inability of the district judge shall continue: And it shall be the duty of the circuit judge, to whom the duties of the district judge shall be assigned in manner aforesaid, and he is hereby authorized, to perform the duties of said district judge during the continuance of his disability.

SEC. 26. *And be it further enacted*, That the several circuit courts hereby established shall have power to appoint clerks for their respective courts; that is to say, one for each district within which such court is or shall be directed by law to be holden; which clerks respectively shall take the same oath or affirmation, and give the like bonds as are by law required to be taken and given by the clerk of the Supreme Court of the United States, and shall be entitled to demand and receive for their services, respectively, the same fees, to be recovered in the same manner as have heretofore been allowed by law, for the like services, to the clerks of the circuit and district courts of the United States.

SEC. 27. *And be it further enacted*, That the circuit courts of the United States, heretofore established, shall cease and be abolished; and that the records and office papers of every kind, belonging to those courts respectively, shall be safely kept by the clerks thereof, who shall continue in all respects to act as heretofore in the business of the said courts, until it shall otherwise be ordered by the courts hereby established.

SEC. 28. *And be it further enacted*, That the supreme, circuit, and district courts of the United States shall be, and hereby are, constituted courts of record.

SEC. 29. *And be it further enacted*, That all writs and processes whatsoever, issuing from any of the circuit courts hereby established, shall, after the first day of April next, bear test of the presiding judge of such court; before which time, they shall bear test of the Chief Justice of the United States; all which said writs and processes shall be signed by the clerks of the courts, respectively, from which the same shall issue, and shall be made returnable to the next stated or special session of such court, and all writs and processes which have issued, or may issue, before the first day of April next, returnable to the circuit courts heretofore established, or to any district court acting as a circuit court, shall be returned to the circuit courts hereby established, and shall be there proceeded in in the same manner as they could had they been originally returnable to the circuit courts hereby established.

SEC. 30. *And be it further enacted*, That every justice of the Supreme Court of the United States, and every judge of any circuit or district court, shall be, and hereby is, authorized and empowered to grant writs of habeas corpus for the purpose of inquiring into the cause of commitment, and thereupon to discharge from confinement, on bail or otherwise: *Provided always*, That no writ of habeas corpus, to be granted under this act, shall extend to any prisoner or prisoners in jail, unless such prisoner or prisoners be in custody, under or by color of the authority of the United States, or be committed for trial before some court of the same; or be necessary to be brought into court to give testimony.

SEC. 31. *And be it further enacted*, That the several courts of the United States shall be, and hereby are, authorized and empowered to grant new trials and rehearings, on motion and cause shown, and to make and establish all necessary rules and regulations for returning writs, filing pleas, and other proceedings, and for regulating the practice and enforcing the orderly conduct of business in the said courts respectively: *Provided always*, That the said rules and regulations be not repugnant to the laws of the United States: and that all the courts of the United States, and each of the justices and judges thereof, shall be, and hereby are, authorized and empowered, to administer all necessary oaths and affirmations, and to bind to the peace or good behaviour, with surety where necessary, in all cases arising under the authority of the United States.

SEC. 32. *And be it further enacted*, That every person who shall be appointed a judge of any circuit court, hereby established, shall, before he shall begin to exercise the duties of his office, take the following oath or affirmation, that is to say:

"I, A B, do solemnly swear (or affirm) that I will administer justice without respect to persons; and will do equal right to all persons; and will, in all things, faithfully and impartially discharge and perform all the duties incumbent on me as a judge of —, according to the best of my abilities and understanding, and to the Constitution and laws of the United States."

SEC. 33. *And be it further enacted*, That, from all final judgments or decrees, in any of the district courts of the United States, an appeal where the matter in dispute, exclusive of costs, shall exceed the sum or value of fifty dollars, shall be allowed to the circuit court next to be holden, in the district where such final judgment or judgments, decree or decrees, may be rendered; and the circuit court or courts are hereby authorized and required to receive, hear, and determine such appeal; and that, from all final judgments or decrees in any circuit court, in any cases of equity, of admiralty, and maritime jurisdiction, and of prize or no prize, an appeal, where the matter in dispute, exclusive of costs, shall exceed the sum or value of two thousand dollars, shall be allowed to the Supreme Court of the United States; and that upon such appeal, a transcript of the libel, bill, answer, deposition, and all other proceedings of what kind soever in the cause, shall be transmit-

Acts of Congress.

ted to the said Supreme Court; and that no new evidence shall be received in the said court, on the hearing of such appeal; and that such appeals shall be subject to the same rules, regulations, and restrictions, as are prescribed by law in the case of writs of error; and that the said Supreme Court shall be, and hereby is, authorized and required, to receive, hear, and determine such appeals.

SEC. 34. *And be it further enacted*, That all final judgments in civil actions at common law, in any of the circuit courts hereby established, whether brought by original process in such court, or removed thereto from any State court, and all final judgments in any of the district courts of the United States may, where the matter in dispute, exclusive of costs, shall exceed the sum or value of two thousand dollars, be re-examined and reversed or affirmed, in the Supreme Court of the United States, by writ of error: whereto shall be annexed, and returned therewith, at the day and place therein mentioned, an authenticated transcript of the record and assignment of errors, and prayer for reversal, and also a citation to the adverse party, signed by a judge of such circuit court, or by the district judge, as the case may be; which citation shall be served on the adverse party personally, or by leaving a true copy thereof at his or their usual place or places of residence, at least thirty days before the time mentioned in such writ of error, for the return thereof.

SEC. 35. *And be it further enacted*, That the stipulation, bond, or security, taken upon any writ of error or appeal to be brought or allowed as aforesaid, shall be returned by the judge taking the same, to the clerk or register of the court where the judgment or decree complained of was rendered, to be by him annexed to the transcript of the record, hereby directed to be sent up to the Supreme Court of the United States.

SEC. 36. *And be it further enacted*, That there shall be appointed, in and for each of the districts established by this act, a marshal, whose duty it shall be to attend the circuit courts of the United States hereby established, when sitting within such district, and who shall have and exercise, within such district, the same powers, perform the same duties, be subject to the same penalties, give the same bond, with sureties, take the same oath, be entitled to and receive the same compensation and emoluments, and in all respects be subject to the same regulations, as are now prescribed by law, in respect to the marshals of the United States heretofore appointed: *Provided always*, That the several marshals of the United States, now in office, shall, during the periods for which they were respectively appointed, unless sooner removed by the President of the United States, be and continue marshals for the several districts hereby established, within which they respectively reside; and shall perform the duties, exercise the powers, and receive the emoluments, hereby directed to be performed, exercised, and received, by marshals therein.

SEC. 37. *And be it further enacted*, That there shall be appointed, for each of the districts hereby

established, a person learned in the law, to act as attorney for the United States within such district, and in the circuit and district courts which may be holden therein; which attorney shall take an oath or affirmation for the faithful performance of the duties of his office, and shall prosecute, in such district, all delinquents for crimes and offenses cognizable under the authority of the United States, and all civil actions or suits in which the United States shall be concerned, except actions or suits in the Supreme Court of the United States; and shall be entitled to, and receive, for their services, respectively, such compensations, emoluments, and fees, as by law are or shall be allowed, to the district attorneys of the United States: *Provided always*, That the district attorneys of the United States now in office shall, severally and respectively, be attorneys for those districts hereby established, within which they reside, until removed by the President of the United States; and shall perform the duties, exercise the powers, and receive the emoluments, hereby directed to be performed, exercised, and received by the attorney of the United States therein.

SEC. 38. *And be it further enacted*, That jurors and witnesses attending any of the courts, hereby established, shall be entitled to, and receive the same compensations, respectively, as heretofore have been allowed by law to jurors and witnesses, attending the circuit and district courts of the United States.

SEC. 39. *And be it further enacted*, That the records of the several circuit courts, hereby established, shall hereafter be kept at the respective places at which the said courts are hereby directed to be holden: *Provided always*, That in the district wherein there are more than one place directed by this act for holding said circuit courts, the records of the circuit court in such district shall hereafter be kept in either of such places, as the said court in such district shall direct.

SEC. 40. *And be it further enacted*, That the privilege from arrest of every person going to, attending at, or returning from, any court of the United States, shall be computed and continue, from the time of his or her departure from his or her habitation, until his or her return thereto: *Provided*, That such time shall not exceed one day, Sundays excluded, for every twenty miles of the distance, which such person must necessarily travel in so going and returning, over and above the time of attendance.

SEC. 41. *And be it further enacted*, That each of the circuit judges of the United States, to be appointed by virtue of this act, shall be allowed, as a compensation for his services, an annual salary of two thousand dollars, to be paid quarter-yearly at the Treasury of the United States; except the judges of the sixth circuit, who shall be allowed the sum of fifteen hundred dollars each, to be paid in like manner; and that the salaries of the district judges of Kentucky and Tennessee shall be, and hereby are, severally augmented to the like sum of fifteen hundred dollars annually, to be paid in like manner.

Approved, February 13, 1801.

Acts of Congress.

An Act making the port of Biddeford and Pepperelborough, and the port of New Bedford, in Massachusetts, ports of entry for ships or vessels, arriving from the Cape of Good Hope, and from places beyond the same.

Be it enacted, &c., That the port of Biddeford and Pepperelborough, and the port of New Bedford, in the Commonwealth of Massachusetts, be, and they are hereby made, ports of entry for ships or vessels arriving from the Cape of Good Hope, and from places beyond the same.

Approved, February 18, 1801.

An Act regulating the grants of land appropriated for the refugees from the British Provinces of Canada and Nova Scotia.

Be it enacted, &c., That the surveyor general be, and he is hereby, directed to cause those fractional townships of the sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first, and twenty-second ranges of townships, which join the southern boundary line of the military lands, to be subdivided into half sections, containing three hundred and twenty acres each; and to return a survey and description of the same to the Secretary of the Treasury, on or before the first Monday of December next; and that the said lands be, and they are hereby, set apart and reserved for the purpose of satisfying the claims of persons entitled to lands under the act, entitled, "An act for the relief of the refugees from the British provinces of Canada and Nova Scotia."

Sec. 2. *And be it further enacted,* That the Secretary of the Treasury shall, within thirty days after the survey of the lands shall have been returned to him as aforesaid, proceed to determine, by lot, to be drawn in the presence of the Secretaries of State and of War, the priority of location of the persons entitled to lands as aforesaid. The persons, thus entitled, shall severally make their locations on the second Tuesday of January next, and the patents for the lands thus located shall be granted in the manner directed for military lands, without requiring any fee whatever.

Sec. 3. *And be it further enacted,* That the following persons, claiming lands under the above-mentioned act, shall, respectively, be entitled to the following quantities of land, that is to say: Martha Walker, widow of Thomas Walker, John Edgar, P. Francis Cazeau, John Allen, and Seth Harding, respectively, two thousand two hundred and forty acres each; Jonathan Eddy, Colonel James Livingston, and Parker Clark, respectively, one thousand two hundred and eighty acres each; and the heirs of John Dodge, one thousand two hundred and eighty acres; Thomas Faulkner, Edward Faulkner, David Gay, Martin Brooks, Lieutenant Colonel Bradford, Noah Miller, Joshua Lamb, Atwood Fales, John Starr, William How, Ebenezer Gardner, Lewis F. Delesdernier, John McGown, and Jonas C. Minot, respectively, nine hundred and sixty acres each; and the heirs of Simon Chester, nine hundred and sixty acres; Jacob Vander Heyden, John Livingston, James Crawford, Isaac Danks, Major B. Von Heer, Benjamin

Thompson, Joseph Bindon, Joseph Levittre, Lieutenant William Maxwell, John D. Mercier, James Price, Seth Noble, Martha Bogart, relict of Abraham Bogart, and formerly relict of Daniel Tucker, and John Halsted, respectively, six hundred and forty acres each; David Jenks, Ambrose Cole, James Cole, Adam Johnson, the widow and heirs of Colonel Jeremiah Duggan, Daniel Earl, junior, John Pasdell, Edward Chinn, Joseph Cone, and John Torreyre, respectively, three hundred and twenty acres each; Samuel Fales, one hundred and sixty acres; which several tracts of land shall, except the last, be located in half sections by the respective claimants.

Approved, February 18, 1801.

An Act to establish the district of Bristol, and to annex the towns of Kittery and Berwick to the district of Portsmouth.

Be it enacted, &c., That, from and after the thirty-first day of March next, the towns of Bristol, Warren, and Barrington, in the State of Rhode Island and Providence Plantations, and all the shores and waters around the same, within the following limits, viz: a line beginning at the middle of the bay, between Mount Hope and Common Fence Point, running southwesterly through the middle of Bristol Ferry, and continuing such course until it strikes a point of equal distance from Rhode Island to Prudence Island, from thence northwardly on a straight line to the westernmost part of Nahant Point, and from thence to the western shore of Bullock's Point, shall be a district, to be called the district of Bristol, of which the port of Bristol shall be the sole port of entry, and a collector for said district shall be appointed to reside at Bristol, and Warren and Barrington shall be ports of delivery only, and a surveyor shall be appointed to reside at each of the ports of Bristol and Warren; and the surveyor at Warren shall also be surveyor for the port of Barrington.

Sec. 2. *And be it further enacted,* That said port of Bristol shall also be a port of entry, for all ships or vessels arriving from the Cape of Good Hope, or places beyond the same.

Sec. 3. *And be it further enacted,* That, from and after the said thirty-first day of March next, the towns of Kittery and Berwick, in the State of Massachusetts, shall be annexed to the district of Portsmouth, in New Hampshire, as ports of delivery only: *Provided,* That nothing herein contained shall be construed to prevent the master or commander of any ship or vessel, having merchandise on board, destined for either of the said places, from making entry at his option, with the collector of the district of York and obtaining permits for the delivery thereof, as heretofore.

Approved, February 25, 1801.

An Act freeing from postage all letters and packets to John Adams.

Be it enacted, &c., That all letters and packets to John Adams, now President of the United States, after the expiration of his term of office, and during his life, shall be carried by the mail, free of postage.

Approved, February 25, 1801.

Acts of Congress.

An Act to continue in force the acts laying duties on licenses for selling wines and foreign distilled spirits by retail, and so much of the act laying certain duties on snuff and refined sugar as respects a duty on refined sugar, on property sold at auction, and on carriages for the conveyance of persons.

Be it enacted, &c., That an act passed on the fifth day of June, in the year one thousand seven hundred and ninety-four, entitled, "An act laying duties on licenses for selling wines and foreign distilled spirituous liquors by retail;" and that so much of an act passed on the fifth day of June, in the year one thousand seven hundred and ninety-four, entitled, "An act laying certain duties upon snuff and refined sugar," as respects a duty upon refined sugar; and that an act passed on the ninth day of June in the year one thousand seven hundred and ninety-four, entitled, "An act laying duties on property sold at auction;" and which acts were, by an act passed on the third day of March, in the year one thousand seven hundred and ninety-five, continued in force until the first day of March, in the year one thousand eight hundred and one, shall be, and the same are hereby continued in force, without limitation of time: anything in any former act to the contrary notwithstanding.

SEC. 2. *And be it further enacted,* That so much of the thirteenth section of an act, passed on the twenty-eighth day of May, in the year one thousand seven hundred and ninety-six, entitled, "An act laying duties upon carriages for the conveying of persons, and repealing the former act for that purpose," as limits the duration of said act, shall be, and the same is hereby, repealed, and said act is hereby continued in force, without limitation of time.

Approved, February 25, 1801.

An Act declaring the consent of Congress to an act of the State of Maryland, passed the twenty-eighth day of December, one thousand seven hundred and ninety-three, for the appointment of a health officer.

Be it enacted, &c., That the consent of Congress be, and is hereby, granted and declared to the operation of an act of the General Assembly of Maryland, passed the twenty-eighth day of December, one thousand seven hundred and ninety-three, entitled, "An act to appoint a health officer for the port of Baltimore, in Baltimore county," so far as to enable the State aforesaid to collect a duty of one cent per ton, on all vessels coming into the district of Baltimore from a foreign voyage, for the purposes in said act intended.

SEC. 2. *And be it further enacted,* That this act shall be in force for three years, from the passing thereof, and from thence to the end of the next session of Congress thereafter, and no longer.

Approved, February 27, 1801.

An Act to allow the transportation of goods, wares, and merchandise, to and from Philadelphia and Baltimore, by the way of Appoquinimink and Sassafra.

Be it enacted, &c., That goods, wares, and merchandise, which lawfully might be transported to or from the city of Philadelphia and Baltimore,

by the way of Elkton, Bohemia or Frenchtown, and Port Penn, Appoquinimink, New Castle, Christiana Bridge, Newport, or Wilmington, shall and may lawfully be transported, to and from the city of Philadelphia and Baltimore, by the way of Appoquinimink and Sassafra river, and shall be entitled to all the benefits and advantages, and shall be subject to all the provisions, regulations, limitations, and restrictions, existing in the case of goods, wares, and merchandise, transported by any of the routes before mentioned.

Approved, February 27, 1801.

An Act for the relief of Arnold Henry Dorhman, or his legal representatives.

Be it enacted, &c., That the President of the United States be, and he is hereby, authorized to issue a patent for the thirteenth township, in the seventh range, to Arnold Henry Dorhman, or his legal representatives, agreeably to a resolution of Congress of the first day of October, in the year one thousand seven hundred and eighty-seven.

Approved, February 27, 1801.

An Act concerning the District of Columbia.

Be it enacted, &c., That the laws of the State of Virginia, as they now exist, shall be and continue in force in that part of the District of Columbia, which was ceded by the said State to the United States, and by them accepted for the permanent seat of Government; and that the laws of the State of Maryland, as they now exist, shall be and continue in force in that part of the said district, which was ceded by that State to the United States, and by them accepted as aforesaid.

SEC. 2. *And be it further enacted,* That the said District of Columbia shall be formed into two counties; one county shall contain all that part of the said district which lies on the east side of the river Potomac, together with the island therein, and shall be called the county of Washington; the other county shall contain all that part of the said district which lies on the west side of said river, and shall be called the county of Alexandria; and the said river in its whole course through said district shall be taken and deemed, to all intents and purposes, to be within both of said counties.

SEC. 3. *Be it further enacted,* That there shall be a court in said district, which shall be called the Circuit Court of the District of Columbia; and the said court and the judges thereof shall have all the powers by law vested in the circuit courts and the judges of the circuit courts of the United States. Said court shall consist of one chief judge and two assistant judges, resident within said District, to hold their respective offices during good behaviour; any two of whom shall constitute a quorum; and each of the said judges shall, before he enter on his office, take the oath or affirmation provided by law to be taken by the judges of the circuit courts of the United States; and said court shall have power to appoint a clerk

of the court in each of said counties, who shall take the oath and give a bond with sureties, in the manner directed for clerks of the district courts in the act to establish the Judiciary of the United States.

SEC. 4. *Be it further enacted*, That said court shall, annually, hold four sessions in each of said counties, to commence as follows, to wit: for the county of Washington, at the city of Washington, on the fourth Mondays of March, June, September, and December; for the county of Alexandria, at Alexandria, on the second Mondays of January, April, July, and the first Monday of October.

SEC. 5. *Be it further enacted*, That said court shall have cognizance of all crimes and offences committed within said district, and of all cases in law and equity between parties, both or either of which shall be resident or be found within said District, and also of all actions or suits of a civil nature at common law or in equity, in which the United States shall be plaintiffs or complainants; and of all seizures on land or water, and all penalties and forfeitures made, arising, or accruing, under the laws of the United States.

SEC. 6. *Provided, and be it further enacted*, That all local actions shall be commenced in their proper counties, and that no action or suit shall be brought before said court, by any original process against any person, who shall not be an inhabitant of, or found within said district at the time of serving the writ.

SEC. 7. *Be it further enacted*, That there shall be a Marshal for the said District, who shall have the custody of the jails of said counties, and be accountable for the safe-keeping of all prisoners legally committed therein; and he shall be appointed for the same term, shall take the same oath, give a bond with sureties in the same manner, shall have generally, within said District, the same powers, and perform the same duties, as is by law directed and provided in the case of marshals of the United States.

SEC. 8. *Be it further enacted*, That any final judgment, order, or decree, in said circuit court, wherein the matter in dispute, exclusive of costs, shall exceed the value of one hundred dollars, may be re-examined and reversed or affirmed in the Supreme Court of the United States, by writ of error or appeal; which shall be prosecuted in the same manner, under the same regulations, and the same proceedings shall be had therein as is, or shall be, provided in the case of writs of error on judgments, or appeals upon orders or decrees, rendered in the circuit court of the United States.

SEC. 9. *Be it further enacted*, That there shall be appointed an Attorney of the United States for said District, who shall take the oath and perform all the duties required of the district attorneys of the United States; and the said attorney, marshal, and clerks, shall be entitled to receive for their respective services, the same fees, perquisites, and emoluments, which are by law allowed respectively to the attorney, marshal, and clerk of the United States, for the district of Maryland.

SEC. 10. *Be it further enacted*, That the chief judge, to be appointed by virtue of this act, shall

receive an annual salary of two thousand dollars, and the two assistant judges, of sixteen hundred dollars each, to be paid quarterly, at the Treasury of the United States.

SEC. 11. *Be it further enacted*, That there shall be appointed in and for each of the said counties, such number of discreet persons to be justices of the peace, as the President of the United States shall from time to time think expedient, to continue in office five years; and such justices, having taken an oath for the faithful and impartial discharge of the duties of the office, shall, in all matters, civil and criminal, and in whatever relates to the conservation of the peace, have all the powers vested in, and shall perform all the duties required of, justices of the peace, as individual magistrates, by the laws hereinbefore continued in force in those parts of said District, for which they shall have been respectively appointed; and they shall have cognizance in personal demands to the value of twenty dollars, exclusive of costs; which sum they shall not exceed, any law to the contrary notwithstanding; and they shall be entitled to receive for their services the fees allowed for like services by the laws hereinbefore adopted and continued, in the eastern part of said District.

SEC. 12. *And be it further enacted*, That there shall be appointed in and for each of the said counties, a Register of Wills, and a Judge, to be called the Judge of the Orphans' Court, who shall each take an oath for the faithful and impartial discharge of the duties of his office; and shall have all the powers, perform all the duties, and receive the like fees, as are exercised, performed, and received, by the Registers of Wills and Judges of the Orphans' Court within the State of Maryland; and appeals from the said courts shall be to the circuit court of said District, who shall therein have all the powers of the Chancellor of the said State.

SEC. 13. *And be it further enacted*, That in all cases where judgment or decrees have been obtained, or hereafter shall be obtained, on suits now depending in any of the courts of the Commonwealth of Virginia, or of the State of Maryland, where the defendant resides or has property within the District of Columbia, it shall be lawful for the plaintiff in such case, upon filing an exemplification of the record and proceedings in such suits, with the clerk of the court of the county where the defendant resides, or his property may be found, to sue out writs of execution thereon, returnable to the said court, which shall be proceeded on, in the same manner as if the judgment or decree had originally been obtained in said court.

SEC. 14. *And be it further enacted*, That all actions, suits, process, pleadings, and other proceedings, of what nature or kind soever, depending or existing in the courts of hustings for the towns of Alexandria and Georgetown, shall be, and hereby are, continued over to the circuit courts, to be holden by virtue of this act, within the District of Columbia, in manner following; that is to say, all such as shall then be depending and undetermined before the court of hustings for the town of Alex-

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andria, to the next circuit court hereby directed to be holden in the town of Alexandria; and all such as shall then be depending and undetermined before the court of hustings for Georgetown, to the next circuit court hereby directed to be holden in the City of Washington: *Provided nevertheless*, That where the personal demand in such cases, exclusive of costs, does not exceed the value of twenty dollars, the justices of the peace, within their respective counties, shall have cognizance thereof.

SEC. 15. *And be it further enacted*, That all writs and processes whatsoever, which shall hereafter issue from the courts hereby established within the District, shall be tested in the name of the chief judge of the District of Columbia.

SEC. 16. *And be it further enacted*, That nothing in this act contained shall in any wise alter, impeach, or impair the rights, granted by or derived from the acts of incorporation of Alexandria and Georgetown, or of any other body corporate or politic, within the said District, except so far as relates to the judicial powers of the Corporations of Georgetown and Alexandria.

Approved, February 27, 1801.

An Act supplementary to an act, entitled "An act to divide the Territory of the United States Northwest of the Ohio into two separate governments."

Be it enacted, &c., That all suits, and process, and proceedings, which on the third day of July, one thousand eight hundred, were pending in any court of either of the counties, which, by the act entitled "An act to divide the Territory of the United States Northwest of the Ohio into two separate governments," has been included within the Indiana Territory; and that all suits, process, and proceedings, which, on the aforesaid third day of July, were pending in the general court of the Territory of the United States Northwest of the Ohio, in consequence of any writ of removal or order for trial at bar, had been removed from either of the counties now within the limits of the Indiana Territory aforesaid, shall be, and they are hereby, revived and continued; and the same proceedings, before the rendering of final judgment, and thereafter, may and shall be had, in the same courts, in all suits and process aforesaid, and in all things concerning the same, as by law might have been had in case the said Territory of the United States Northwest of the Ohio had remained undivided.

Approved, March 2, 1801.

An Act to add to the District of Massac, on the Ohio, and to discontinue the District of Palmyra, in the State of Tennessee, and therein to amend the act, entitled "An act to regulate the collection of duties on imports and tonnage."

Be it enacted, &c., That the District of Massac, in addition to the territory it already possesses, shall include all waters, shores, and inlets, now included within the District of Palmyra, and all rivers, waters, shores and inlets, lying within the State of Tennessee.

SEC. 2. *And be it further enacted*, That, from

and after the thirtieth day of June next, so much of the "Act to regulate the collection of duties on imports and tonnage," as establishes the District of Palmyra, in the State of Tennessee, shall be repealed, except as to the recovery and receipts of such duties on goods, wares, and merchandise, and on the tonnage of ships or vessels, as shall have accrued, and as to the recovery and distribution of fines, penalties, and forfeitures, which shall have been incurred before and on the said day.

Approved, March 2, 1801.

An Act making appropriations for the Military Establishment of the United States, for the year one thousand eight hundred and one.

Be it enacted, &c., That, for defraying the expenses of the Military Establishment of the United States, for the year one thousand eight hundred and one, the pay and subsistence of the officers and men, bounties, and premiums, the clothing, hospital, ordnance, Quartermaster's and Indian departments, the defensive protection of the frontiers, the contingent expenses of the War Department, for the fabrication of cannon and arms, and purchase of ammunition, and for the payment of military pensions, the sum of two millions, ninety-three thousand and one dollars be, and is, hereby appropriated; that is to say,

For the pay of the Army of the United States, four hundred and eighty thousand three hundred and ninety-six dollars.

For the subsistence of the Army, three hundred and six thousand three hundred and ninety-five dollars.

For forage, the sum of seven thousand six hundred and eighty dollars.

For horses to replace those which may die, or become unfit for service, the sum of five thousand dollars.

For clothing, the sum of one hundred and forty-one thousand five hundred and thirty dollars.

For bounties and premiums, the sum of forty-two thousand dollars.

For the hospital department, the sum of twenty thousand dollars.

For the ordnance department, the sum of one hundred thousand dollars.

For the Quartermaster's department, the sum of one hundred and sixty-five thousand dollars.

For paying annuities to the following nations of Indians in pursuance of treaties: To the Six Nations, Cherokees, Chickasaws, and Creeks, the sum of fifteen thousand dollars; and for presents to the Choctaws, two thousand dollars.

For defraying the expense of the transportation of annuities to the Indian tribes, ten thousand dollars.

For promoting civilization among the Indian tribes, and pay of temporary agents, and rations to Indians at the different military posts, the sum of forty-five thousand dollars.

For the defensive protection of the frontiers of the United States, including the erection and repairs of forts and fortifications, the sum of thirty thousand dollars.

For loss of stores, allowances to officers on being ordered to distant commands, and for special purposes, advertising and apprehending deserters, printing, purchasing maps, and other contingencies, the sum of thirty thousand dollars.

For the annual allowance to the invalids of the United States, for their pensions, from the fifth of March, one thousand eight hundred and one, to the fourth of March, one thousand eight hundred and two, the sum of ninety-three thousand dollars.

For the fortification of ports and harbors within the United States, the sum of two hundred thousand dollars.

For the fabrication of cannon and small arms, and the purchase of ammunition, being the balance of appropriations unexpended, which have been carried to the surplus fund, four hundred thousand dollars.

SEC. 2. *And be it further enacted*, That the foregoing appropriations shall be paid out of any moneys in the Treasury of the United States not otherwise appropriated.

Approved, March 2, 1801.

An Act to amend the act, entitled "An act to establish a General Stamp Office."

Be it enacted, &c., That whenever any person, or persons, shall pay to a collector of the revenue the duty chargeable by law on a deed, instrument, or writing, on which the stamp duty chargeable by law shall not have been paid, together with the further sum of ten dollars, and shall obtain the endorsement and receipt of such collector, upon such deed, instrument, or writing therefor, agreeably to the provisions of an act, entitled "An act to establish a general stamp office," passed on the twenty-third day of April, in the year one thousand eight hundred, it shall be lawful for such person, or persons, to produce such deed, instrument, or writing, to the supervisor of the revenue within whose district such person or persons shall reside; which supervisor thereupon shall certify under his hand and seal, and upon some part of the said deed, instrument, or writing, that the same, so endorsed, has been produced to him, and that the said endorsement is, in his belief, genuine; after which, said endorsement and certificate, and not otherwise, such deed, instrument, or writing, shall be to all intents and purposes as valid and available as if the same had been or were stamped, counter-stamped, or marked as by law required; anything in any act to the contrary notwithstanding.

SEC. 2. *And be it further enacted*, That so much of the act, entitled "An act to establish a general stamp office," as requires certain duties to be performed by the surveyors of the revenue, shall be, and the same is hereby, repealed.

Approved, March 3, 1801.

An Act providing for a Naval Peace Establishment, and for other purposes.

Be it enacted, &c., That the President of the United States be, and he hereby is, authorized,

whenever the situation of public affairs shall, in his opinion, render it expedient, to cause to be sold, they being first divested of their guns and military stores, which are to be carefully preserved, all or any of the ships and vessels belonging to the Navy, except the frigates United States, Constitution, President, Chesapeake, Philadelphia, Constellation, Congress, New York, Boston, Essex, Adams, John Adams, and General Greene; and also to lay up all the frigates thus to be retained, except such as are directed by this act to be kept in constant service in time of peace.

SEC. 2. *And be it further enacted*, That six of the frigates to be retained shall be kept in constant service in time of peace, and shall be officered and manned as the President of the United States may direct, not to exceed, however, two-thirds of the present complement of seamen, and ordinary seamen; the residue of the frigates to be retained shall be laid up in convenient ports, and there shall be permanently attached to each frigate so laid up, one sailing master, one boatswain, one gunner, one carpenter, and one cook, one sergeant or corporal of marines, and eight marines; and to the large frigates, twelve, and to the small frigates, ten seamen; the sailing master shall have the general care and superintendence of the ship; and shall generally execute such duties of a purser as may be necessary.

SEC. 3. *And be it enacted*, That, from and after the day when the reduction of the Navy shall take place as aforesaid, the Navy ration shall consist of as follows: on Sunday, fourteen ounces of bread, one and a quarter pound of beef, half a pound of flour, one quarter of a pound of suet, one half pint of distilled spirits; Monday, fourteen ounces of bread, one pound of pork, half pint of pease, one half pint of distilled spirits; Tuesday, fourteen ounces of bread, one pound of beef, two ounces of cheese, one half pint of distilled spirits; Wednesday, fourteen ounces of bread, one pound of pork, half pint of rice, one half pint of distilled spirits; Thursday, fourteen ounces of bread, one and a quarter pound of beef, half pound of flour, quarter pound of suet, one half-pint of distilled spirits; Friday, fourteen ounces of bread, four ounces of cheese, two ounces of butter, half pint of rice, half pint of molasses, one half pint of distilled spirits; Saturday, fourteen ounces of bread, one pound of pork, half pint of pease, half pint of vinegar, one half pint of distilled spirits.

SEC. 4. *Be it further enacted*, That the President of the United States retain in the Navy service, in time of peace, nine captains, thirty-six lieutenants, and one hundred and fifty midshipmen, including those employed on board of the six frigates to be kept in service; and that he be authorized to discharge all the other officers in the Navy service of the United States; but such of the aforesaid officers as shall be retained in the service shall be entitled to receive no more than half their monthly pay during the time when they shall not be under orders for actual service.

SEC. 5. *Be it further enacted*, That all the commissioned and warrant officers, who shall be discharged as aforesaid, shall be entitled to receive

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four months pay over and above what may be due to them respectively at the time of their discharge.
Approved, March 3, 1801.

An Act concerning the Mint.

Be it enacted, &c., That the Mint shall remain in the city of Philadelphia, until the fourth day of March, in the year one thousand eight hundred and three.

SEC. 2. *And be it further enacted*, That during the continuance of the Mint at the city of Philadelphia, the duties now enjoined on the Chief Justice of the United States, the Secretary and Comptroller of the Treasury, the Secretary for the Department of State, and the Attorney General of the United States, by the eighteenth section of the act, entitled "An act establishing a Mint, and regulating the coins of the United States," passed the second day of April, one thousand seven hundred and ninety-two, shall be performed by the District Judge of Pennsylvania, the Attorney for the United States in the district of Pennsylvania, and the Commissioner of Loans for the State of Pennsylvania.

Approved, March 3, 1801.

An Act authorizing the Secretary of the Treasury to employ Clerks for completing the abstracts of the valuations of lands and dwelling-houses, and the enumeration of slaves.

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to employ clerks, for such compensation as he shall judge reasonable, to complete the abstracts of the valuation of lands and dwelling-houses, and the enumeration of slaves within the United States, under the direction of the commissioners authorized to direct the completing of such abstracts, in those States where clerks cannot be procured by the commissioners, for the compensation allowed by law to clerks for performing that business, agreeably to the provisions of the following acts; that is to say an act entitled "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves within the United States;" an act, entitled "An act supplementary to the act, entitled 'An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States;'" and an act, entitled "An act to provide for equalizing the valuation of unseated lands."

Approved, March 3, 1801.

An Act giving a right of pre-emption to certain persons who have contracted with John Cleves Symmes, or his associates, for lands lying between the Miami rivers, in the Territory of the United States Northwest of the Ohio.

Be it enacted, &c., That any person or persons, and the legal representative or representatives of any person or persons, who, before the first day of January in the year of our Lord one thousand eight hundred, had made any contract or contracts in

writing, or by any note or memorandum thereof in writing, either with John Cleves Symmes, or with any of his associates, or who had made to him or them, any payment of money for the purchase of lands, situate between the Miami rivers, within the limits of a survey made by Israel Ludlow, in conformity to an act of Congress of the twelfth of April, one thousand seven hundred and ninety-two, and not comprehended within the limits of a tract of land conveyed to John Cleves Symmes and his associates, by letters patent, bearing date the thirtieth of September, one thousand seven hundred and ninety-four, in the Territory of the United States Northwest of the Ohio, shall be entitled to a preference, in becoming the purchasers, from the United States, of all the lands so contracted for, at the price of two dollars per acre, exclusive of the surveying fees, and other incidental expenses; and payment be made therefor, to the Treasurer of the United States, or the receiver of public moneys for the lands of the United States at Cincinnati, in like instalments, and under the same conditions, as directed by the act, entitled "An act to amend the act, entitled 'An act providing for the sale of the lands of the United States in the Territory of the United States Northwest of the Ohio and above the mouth of Kentucky river;'" *Provided however*, That no interest shall be charged upon any of the instalments until they respectively become payable.

SEC. 2. *And be it further enacted*, That every person claiming the benefit of the first section of this act, shall, on or before the first day of November next, deliver to the receiver of public moneys, for the lands of the United States at Cincinnati, a notice in writing, stating the nature and extent of his claim or contract; and if any person shall neglect to give such notice of his claim or contract, or having given the same, shall neglect to make application for the purchase thereof, as hereinafter directed, or shall fail in making the first payment before the first of January next, all his right of pre-emption, on the terms aforesaid, shall cease and become void.

SEC. 3. *And be it further enacted*, That the aforesaid receiver of public moneys, on being paid the fees hereinafter provided, shall receive every such notice of claim, or statement thereof, and give a receipt therefor, and carefully put and preserve on file every such paper or writing, and lay the same before the commissioners, when met, for settling and adjusting the claims aforesaid.

SEC. 4. *And be it further enacted*, That the aforesaid receiver of public moneys, and two other persons, who shall be appointed by the President of the United States, alone shall be commissioners for the purpose of ascertaining the rights of persons claiming the benefits of this act, who, previous to entering on the duties of their appointment, shall respectively take and subscribe the following oath or affirmation, before some person qualified to administer oaths, to wit: "I ———, do solemnly swear, or affirm, that I will impartially exercise and discharge the duties imposed upon me, by an act of Congress, entitled 'An act giving a right of pre-emption to certain persons

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who have contracted with John Cleves Symmes, or his associates, for lands lying between the Miami rivers, in the Territory of the United States Northwest of the Ohio, 'to the best of my understanding and ability;' and it shall be the duty of the said commissioners to meet at Cincinnati, between the first and tenth day of November next, of which meeting three weeks' previous notice shall be given by them in a public newspaper printed at Cincinnati; and they, or a majority of them, so met, shall not adjourn to any other place, or for a longer time than three days, until they have finally completed the business of the said appointment; and they, or any two of them, shall have power to hear, and decide in a summary manner, all matters respecting all such claims of which notice may have been filed, pursuant to the third section of this act, also to administer oaths, and examine witnesses, and such other testimony as may be adduced, and to determine thereon according to justice and equity; which determination shall be final; and when it shall appear to them that the claimant is entitled to the right of pre-emption on the terms aforesaid, they shall give a certificate thereof, stating as accurately as may be, the quantity and local situation of the lands to which he may be entitled, directed to the register of the land office at Cincinnati, or when the said register may be a claimant to the surveyor general, copies of which certificates shall be by them recorded, in a book to be provided for that purpose, and deposited for safe keeping with the register of the land office.

SEC. 5. *And be it further enacted*, That the aforesaid register and surveyor general, respectively, upon application of any person or persons, who shall produce a certificate of the commissioners aforesaid, to him directed, before the first day of January next, and shall also produce a receipt from the Treasurer of the United States, or the aforesaid receiver of public moneys, for at least one-fourth part of the purchase money, and also for the payment of three dollars for each half section or smaller quantity, and shall pay him the fees in like case provided by the act, entitled "An act to amend the act, entitled 'An act providing for the sale of the lands of the United States in the Territory of the United States Northwest of the Ohio, and above the mouth of Kentucky river,'" shall admit such person or persons to become a purchaser or purchasers of the land designated in the said certificate, and shall receive the said certificate, and preserve it on file, and make an entry of the application in his book, kept for the purpose, and on any of the three last payments being made in advance, he shall allow the purchaser the like discount as is allowed by the fourth clause of the fifth section of the act last above recited; and on payment in full, and a final settlement had, he shall give his certificate thereof; upon producing which to the Secretary of the Treasury, a patent shall issue in like manner as is provided by the said act last above recited.

SEC. 6. *And be it further enacted*, That the said receiver of public moneys shall be entitled to have and receive, to his own use, from the respect-

ive claimants, the following fees, that is to say; for filing a notice and evidence of claim, or statement thereof, twenty-five cents; for giving a copy thereof, twelve and a half cents for every one hundred words: And the said commissioners shall, as a full compensation for their services, be entitled, jointly, to have and receive from the respective claimants, that is to say; for every determination, and entering the result in their book, at the rate of three dollars for every section; for every certificate, and recording the same, at the rate of one dollar for every section.

SEC. 7 *And be it further enacted*, That all the aforesaid tract of country shall be surveyed by the surveyor general, as soon as may be after the first day of September next, in the manner hereinafter directed.

1. So much of the said tract as lies between the northern boundary line, and the aforesaid patent of John Cleves Symmes, and associates, and Israel Ludlow's southern boundary of the seventh entire range of townships, shall be laid off into sections, agreeably to northwardly and southwardly lines, run under the direction of John Cleves Symmes; and the marks thereon made, at the time of running the aforesaid lines, for the corners of sections shall be established by the surveyor general, and eastwardly and westwardly lines shall be run to intersect the aforesaid northwardly and southwardly lines, in the corresponding marked points.

2. And the residue of the said tract lying north of the aforesaid southern boundary of the seventh entire range, shall be laid off into sections, according to such uniform rule and method, as, in the opinion of the surveyor general, shall best secure the rights and interest of those who are entitled to pre-emption.

3. Such divisions shall be made of sections, according to the claim of such who obtain pre-emption right, and the contents of each and every section, and such division thereof, shall be ascertained, and the surveyor general shall prepare and transmit a plan thereof to the aforesaid register, immediately after the said survey shall be completed, and also forward a copy thereof to the Secretary of the Treasury.

SEC. 8. *And be it further enacted*, That all persons, availing themselves of a pre-emption under this act, shall make application for a section, or any part or parts of a section or sections, according to the estimated quantity of six hundred and forty acres to a section, and the amount of the excess or deficiency shall be added to or deducted from the last payment, and the purchaser shall make payment for and hold the quantity returned and expressed in the plats, let the quantity be more or less.

SEC. 9. *And be it further enacted*, That the duties of the surveyor general, of the aforesaid register and receiver of public moneys, as nearly as may be consistent with this act, shall respectively be the same as directed in and by the last recited act, and the fees and emoluments shall respectively be the same as provided in the said act last recited.

SEC. 10. *And be it further enacted*, That after completing the surveys, agreeably to this act, re-

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serving the lots marked sixteen in each township, or fractional part of a township, in which the same may be, for the purposes expressed in the ordinance of Congress of the twentieth of May, one thousand seven hundred and eighty-five, the residue of the lands, and so many of the aforesaid pre-emptions as shall become forfeited by reason of failures of payment, shall be sold agreeably to the last recited act.

SEC. 11. *And be it further enacted*, That this act shall have full operation and effect, anything in any former law to the contrary notwithstanding.

Approved, March 3, 1801.

An Act supplementary to the act, entitled "An act concerning the District of Columbia."

Be it enacted, &c., That the Circuit Courts for the District of Columbia shall be, and they are hereby, invested with the same power respecting constables, inspectors, and the inspection of tobacco and flour, surveyors, mills, highways and ferries, for the county of Alexandria, as have heretofore been vested in county courts of the Commonwealth of Virginia; and for the county of Washington, the same power and authority as have been heretofore exercised by the county and levy courts of the State of Maryland; with power to appoint to all other offices necessary for the said district, under the laws of the respective States of Maryland and Virginia: And all officers for whom no special provision is made by this act, or the act to which this is a supplement, shall receive the same fees and emoluments as they have respectively received under the jurisdiction of the respective States.

SEC. 2. *And be it further enacted*, That all indictments shall run in the name of the United States, and conclude, against the peace and government thereof: And all fines, penalties and forfeitures accruing under the laws of the States of Maryland and Virginia, which by adoption have become the laws of this district, shall be recovered with costs, by indictment or information in the name of the United States, or by action of debt, in the name of the United States and of the informer; one half of which fine shall accrue to the United States, and the other half to the informer; and the said fines shall be collected by or paid to the marshal, and one half thereof shall be by him paid over to the board of commissioners hereinafter established, and the other half to the informer; and the marshal shall have the same power regarding their collection, and be subject to the same rules and regulations as to the payment thereof, as the sheriffs of the respective States of Maryland and Virginia are subject to in relation to the same.

SEC. 3. *And be it further enacted*, That all felonies committed within the county of Alexandria shall be punishable in the same manner as such crimes were punishable by the laws of Virginia, as they existed prior to the year one thousand seven hundred and ninety-six; and the circuit court for the said county of Alexandria shall possess and exercise the same powers and jurisdiction, civil and criminal, as is now possessed and exercised by the district courts of Virginia.

SEC. 4. *And be it further enacted*, That the magistrates, to be appointed for the said district, shall be and they are hereby constituted a board of commissions within their respective counties, and shall possess and exercise the same powers, perform the same duties, receive the same fees and emoluments, as the levy courts or commissioners of county for the State of Maryland possess, perform and receive; and the clerks and collectors, to be by them appointed, shall be subject to the same laws, perform the same duties, possess the same powers, and receive the same fees and emoluments as the clerks and collectors of the county tax of the State of Maryland are entitled to receive.

SEC. 5. *And be it further enacted*, That the clerks of the circuit court shall, within their respective districts, be bound to perform the same duties, respecting the recording of deeds and all other services, and shall receive the same fees and emoluments for the same except in those cases provided for in the ninth section of the act to which this is a supplement) as are now performed and received by the clerks of the counties of the respective States of Maryland and Virginia.

SEC. 6. *And be it further enacted*, That in all cases where the Constitution or laws of the United States provide that criminals and fugitives from justice, or persons held to labor in any State, escaping into another State, shall be delivered up, the chief justice of the said district shall be, and he is hereby empowered and required to cause to be apprehended and delivered up such criminal, fugitive from justice, or persons fleeing from service, as the case may be, who shall be found within the district, in the same manner and under the same regulations as the executive authority of the several States are required to do the same; and all executive and judicial officers are hereby required to obey all lawful precepts or other process issued for that purpose, and to be aiding and assisting in such delivery.

SEC. 7. *And be it further enacted*, That it shall be lawful for the sheriffs and collectors of public dues for the counties of Montgomery and Prince George's in the State of Maryland, and for the sheriffs of Fairfax county in the Commonwealth of Virginia, and they shall respectively have full power and authority, to enter into those parts of the now District of Columbia, which were heretofore within the limits of their respective bailiwicks, for the purposes of collecting, by distress or otherwise, as they were heretofore authorized to do, all officers fees, State taxes and county taxes, levies, fines and other public dues, which were due on the first Monday of December, one thousand eight hundred, and still remain uncollected, from persons residing or having property, subject to the payment of such officers fees, State taxes and county taxes, and levies within the said district; and all disputes or controversies that do or may arise between such sheriff or collector, and the person or persons from whom he or they may claim such public dues, shall be cognizable before and tried by the respective State courts to whom the trial of such controversies heretofore belonged, and not before the court of the District of Columbia.

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SEC. 8, *And be it further enacted*, That it shall and may be lawful for the sheriffs of the said counties of Montgomery and Prince George's in the State of Maryland, and for the sheriff of Fairfax county in the Commonwealth of Virginia, and they shall respectively have full power and authority, to enter into those ports parts of the now District of Columbia, which were heretofore within the limits of their respective bailiwicks, for the purpose of arresting and conducting to the respective jails under their keeping and care, as they heretofore might have done had the law to which this is a supplement never passed, each and every person within the limits of the District of Columbia, upon whom such sheriff hath heretofore served a writ of *capias ad satisfaciendum*, *capias ad respondendum*, attachment or other process, issuing from any State court, which commands and requires such sheriff to have the body of the person before the court from which such writ or process hath issued.

SEC. 9. *And be it further enacted*, That where by this act, and the act to which this is a supplement, appointments are authorized to be made by the circuit court of the district, it shall be lawful for the chief judge, with one of the associate justices of the said court, to make such appointments.

Approved, March 3, 1801.

An Act authorizing the remission of duties on certain teas destroyed by fire, while under the care of the officers of the customs, in Providence, Rhode Island.

Be it enacted, &c., That the collector of the district of Providence, in the State of Rhode Island, be, and he is hereby, authorized and directed to remit the duties on such part of a certain quantity of teas, imported into the port of Providence, in the ship called the *Resource*, on the twenty-ninth day of July one thousand eight hundred, by Thomas Lloyd Halsey, John Corlis, William F. Megee, and Henry Smith, of the town of Providence, merchants, and on such part of a certain quantity of teas, imported into the said port, in the ship called the *Ann and Hope*, on the twenty-second day of August, in the same year, by John Innes Clarke, of the said town, merchant, as remained deposited to secure the payment of duties under the care of the officers of the customs, on the twenty-first day of January last, in the aforesaid town of Providence, and shall be proved, to the satisfaction of the said collector, to have been burned and destroyed.

Approved, March 3, 1801.

An Act to amend the act altering the district of Bermuda Hundred and City Point.

Be it enacted, &c., That, from and after the passing of this act, the master or commander of any ship or vessel arriving within the districts of Petersburg or Richmond, laden with goods, wares, and merchandise, belonging or consigned to persons resident within both the said districts, shall make entry of such ship or vessel, in manner already prescribed by law, with the collector of that district wherein the owner or consignee, or the hus-

band or acting manager of such ship or vessel, shall actually reside: And the said master or commander shall, at the time of making the entry aforesaid, deliver a duplicate manifest of the cargo, as now required by law, to the said collector, whose duty it shall then be to certify the same as a true copy, and to transmit it to the collector of the other district; and the delivery of such goods, wares, or merchandise, shall be authorized by permits from the collector of each district, respectively, in which the same shall have been duly entered according to law: *Provided*, That no bona fide importer, owner, or consignee, of goods, wares, or merchandise, residing in either district, shall be admitted to make an entry of such goods, wares or merchandise, with the collector of the district in which such importer, owner or consignee, shall not reside: *And provided also*, That all entries for goods, wares, or merchandise, made by agents, for persons residing in other districts, shall be made with the collector of the district in which such ship or vessel may discharge.

Approved, March 3, 1801.

An Act making appropriations for the support of Government for the year one thousand eight hundred and one.

Be it enacted, &c., That for the support of Government, and to discharge certain claims and expenses hereafter enumerated, the following sums be and are hereby appropriated, that is to say:

For the compensation granted by law to the President and Vice-President of the United States, thirty thousand dollars.

For the like compensation to the members of the Senate and House of Representatives, their officers and attendants, one hundred and ninety-three thousand four hundred and seventy dollars.

For the contingent expenses of the two Houses of Congress, including the payment of certain articles of furniture purchased for the accommodation of Congress, and not provided for by former appropriations, seventeen thousand dollars.

For the compensation granted by law to the judges of the United States, the Attorney General, the district attorneys, and marshals, eighty-three thousand four hundred dollars.

For defraying the expense of courts, jurors, and witnesses, and for defraying the expenses of prosecutions for offences against the United States, and for safe keeping of prisoners, thirty thousand dollars.

For compensation to the Secretary of the Treasury, clerks and persons employed in his office, eleven thousand three hundred and nine dollars, and eighty-one cents.

For expenses of stationery, printing, translating foreign languages, allowances to persons employed in receiving and transmitting passports and sea-letters, and all other contingent expenses in the office of the Secretary of the Treasury, eight hundred dollars.

For compensation to the Comptroller of the Treasury, clerks, and persons employed in his office, twelve thousand nine hundred and seventy-seven dollars and eight cents.

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For expense of stationery, printing, and all other contingent expenses in the Comptroller's office, eight hundred dollars.

For compensation to the Auditor of the Treasury, clerks, and persons employed in his office, twelve thousand two hundred and twenty dollars and ninety-three cents.

For expense of stationery, printing, and all other contingent expenses in the Auditor's office, seven hundred and fifty dollars.

For compensation to the Treasurer, clerks, and other persons employed in his office, six thousand three hundred and forty-eight dollars and ninety-eight cents.

For expense of stationery, printing, and all other contingent expenses in the Treasurer's office, three hundred dollars.

For compensation to the Commissioner of the Revenue, clerks, and other persons employed in his office, six thousand two hundred and fifty-three dollars and six cents.

For expense of stationery, printing, and all other contingent expenses in the office of the Commissioner of the Revenue, nine hundred dollars.

For compensation to the Register of the Treasury, clerks, and persons employed in his office, sixteen thousand and fifty-two dollars and one cent.

For expense of stationery, printing, and all other contingent expenses in the Register's office, two thousand eight hundred dollars.

For compensation to the Superintendent of Stamps, clerks, and persons employed in his office, and for making good a deficiency in former appropriations for the stamp office, five thousand nine hundred and ninety dollars and twenty-four cents.

For expense of stationery, printing, and all other contingent expenses in the stamp office, six hundred dollars.

For compensation to the Secretary of the Commissioners of the Sinking Fund, two hundred and fifty dollars.

For fire-wood and candles for the offices of the Treasury, including the stamp office, and other contingencies, four thousand dollars.

For defraying the expense of stating and printing the public accounts for the year one thousand eight hundred and one, one thousand two hundred dollars.

For making good the deficiency of former appropriations, for the expense of removing the books and records of the Treasury from Philadelphia to Trenton, in the year one thousand seven hundred and ninety-nine, two thousand six hundred and thirty-nine dollars and seventy-six cents.

For the expense of new office furniture for the Treasury, at the city of Washington, two thousand dollars.

For flooring the Treasury, and incidental expenses for securing the buildings and records of the Treasury, three hundred and fifty-nine dollars and eighty-three cents.

For paying two watchmen for the Treasury, six hundred dollars.

For the expense of two buildings for messengers of the Treasury, and sinking two wells for the Treasury, five thousand one hundred and twenty-two dollars.

For compensation to the several loan officers, thirteen thousand two hundred and fifty dollars.

For compensation to the clerks of the Commissioners of Loans, and an allowance to certain loan officers in lieu of clerk hire, twelve thousand one hundred dollars.

For defraying the authorized expenses of the several loan offices, two thousand nine hundred dollars.

For compensation to the Secretary of State, clerks, and persons employed in his office, eleven thousand three hundred and sixty dollars.

For the contingent expenses of the Office of State, thirteen thousand five hundred dollars.

For compensation to the Director of the Mint, officers, clerks, and other persons employed in the Mint establishment, seventeen thousand six hundred dollars.

For repairs, and all other contingent expenses in the Mint establishment, six thousand three hundred dollars.

For compensation to the Secretary of War, clerks, and persons employed in his office, eleven thousand two hundred and ten dollars.

For the compensation of two additional clerks employed by the Secretary of War in copying papers in the office of the Secretary of the Treasury, to replace those lately burnt in the War Office, one thousand two hundred dollars.

For such additional compensation to the clerks of the several Departments of the Treasury, of State, of War, of the Navy, and of the General Post Office, not exceeding for each department, respectively, fifteen per cent. in addition to the sums allowed by the act, entitled "An act to regulate and fix the compensation of clerks, as the Secretaries of the said departments and the Postmaster General may, respectively, think reasonable for the present year, to be distributed as the said Secretaries and the Postmaster General, respectively, shall think proper, to the clerks in their departments, respectively, eleven thousand eight hundred and eighty-five dollars.

For an additional allowance to the chief clerk in the office of the Secretary of the Navy, for his services in the year one thousand eight hundred, the sum of three hundred dollars.

For contingent expenses attending the office of Secretary of War, and to make good the deficiency of former appropriations, five thousand dollars.

For compensation to the Accountant of the War Department, clerks, and persons employed in his office, ten thousand nine hundred and ten dollars.

For contingent expenses in the Accountant's office, one thousand dollars.

For compensation to the Purveyor of Public Supplies, clerks, and persons employed in his office, and for contingent expenses of the same, four thousand four hundred and sixty-six dollars.

For compensation to the Secretary of the Navy, clerks, and persons employed in his office, nine thousand one hundred and ten dollars.

For contingent expenses in the office of the Secretary of the Navy, three thousand three hundred dollars.

For compensation to the Accountant of the Navy Department, clerks, and persons employed in his office, and to make good a deficiency in the appropriation of the last year, eleven thousand four hundred and forty-nine dollars and forty-one cents.

For the contingent expenses in the Accountant's office, seven hundred and fifty dollars.

For compensation to the Postmaster General, Assistant Postmaster General, clerks, and persons employed in the General Post Office, nine thousand nine hundred and sixty dollars.

For the contingent expenses of the General Post Office, two thousand one hundred and twelve dollars and fifty cents.

For compensation to the Surveyor General, the contingent expenses in his office, and the expense of executing surveys of the public land Northwest of the river Ohio, twenty-eight thousand two hundred dollars.

For salaries to the Governor, Secretary, and Judges of the Territory Northwest of the river Ohio, and the contingent expenses of that Government, five thousand five hundred dollars.

For salaries to the Governor, Secretary, and Judges of the Mississippi Territory, and the contingent expenses of that Government, five thousand five hundred dollars.

For salaries to the Governor, Secretary, and Judges of the Indiana Territory, and the contingent expenses of that Government, five thousand five hundred dollars.

For the discharge of such demands against the United States, unprovided for, as shall be ascertained and admitted in due course of settlement at the Treasury, two thousand dollars.

For satisfying annuities and grants to Isaac Van Wart, John Paulding, David Williams, Joseph De Beaulieu, Joseph Traversie, James McKensie, Joseph Brussels, Elizabeth Bergen, and the children of Major Alexander Trueman and Colonel John Harding, one thousand seven hundred and fifty-three dollars and thirty-three cents.

For the expenses of intercourse with foreign nations during the present year, and making good the deficiency of the appropriation for the year one thousand eight hundred, for the expense of the mission to France, eighty-five thousand dollars.

For carrying into effect the Treaty of Amity, Commerce, and Navigation, between the United States and the King of Great Britain, fifty-eight thousand eight hundred and sixty-four dollars.

For a deficiency of former appropriations for carrying into effect the treaty between the United States and the King of Spain, forty-six thousand five hundred dollars.

For fulfilling the engagements of the United States with the Mediterranean Powers, two hundred and fifty-six thousand dollars.

For prosecuting the claims of American citi-

zens for property captured by the belligerent Powers, sixty-four thousand dollars.

For the relief of American seamen, thirty thousand dollars.

For defraying the further expenses incident to the valuation of houses and lands, and the enumeration of slaves, within the United States, forty thousand dollars.

For the support of light-houses, beacons, buoys, and public piers, and other improvements in navigation, thirty-eight thousand six hundred and twenty-two dollars and seventy cents.

For discharging the expense of the second enumeration of the inhabitants of the United States, the sum of sixty thousand dollars.

For discharging such miscellaneous claims against the United States, not otherwise provided for, as shall be admitted at the Treasury, which, according to the usage thereof, require payment in specie, four thousand dollars.

For the expense of returning the votes for President and Vice President of the United States, one thousand five hundred and twenty-four dollars and fifty cents.

For repairing the building occupied by the Treasury Department, the sum of two thousand dollars.

For satisfying the claim of Clement Biddle, twenty-nine thousand eight hundred and fifty-six dollars and sixty-three cents.

For erecting a light-house at Old Point Comfort, the sum of three thousand five hundred dollars.

SEC. 2. *And be it further enacted*, That the several appropriations, hereinbefore made, shall be paid and discharged out of any moneys in the Treasury, not otherwise appropriated.

Approved, March 3, 1801.

An Act making appropriations for the Navy of the United States for the year one thousand eight hundred and one.

Be it enacted, &c., That, for defraying the expenses of the navy of the United States for the year one thousand eight hundred and one, there shall be, and hereby is, appropriated the sum of three millions forty-two thousand three hundred and fifty-two dollars and ninety-five cents, that is to say :

For the pay of the officers of the navy of the United States, the sum of three hundred and eighty-two thousand seven hundred and eighty-eight dollars.

For the subsistence of the officers of the navy, the sum of sixty-nine thousand eight hundred and two dollars and sixty cents.

For the pay of the seamen, the sum of eight hundred and sixteen thousand six hundred and sixty dollars.

For provisions, the sum of five hundred and ninety-seven thousand one hundred and one dollars and thirty-seven cents.

For the expenses of medicines, hospitals, and hospital stores, the sum of thirty-one thousand six hundred and forty-seven dollars and twenty cents.

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For the contingent expenses of the navy, including expenditure of military stores, the sum of three hundred and forty-four thousand six hundred dollars.

For salaries to storekeepers, clerks, store rent, laborers, and other contingencies, the sum of thirty-seven thousand eight hundred and fifty dollars.

For the pay of the officers, non-commissioned officers, and privates, of the marine corps, the sum of ninety-nine thousand two hundred and thirty-four dollars.

For the subsistence of the officers and privates of the marine corps, the sum of eleven thousand four hundred and eighty-six dollars and ten cents.

For clothing for the marine corps, the sum of thirty-three thousand five hundred and eighty-one dollars and thirty cents.

For military stores for the marine corps, the sum of nine thousand one hundred and sixty-six dollars and thirty-eight cents.

For the contingent expenses of the marine corps, including camp equipage, quartermaster, barrack-master, hospital stores, stationery, and other contingencies, the sum of thirteen thousand four hundred and thirty-six dollars.

For the expenses attending six seventy-four gun ships, and for completing navy yards, docks, and wharves, the sum of five hundred thousand dollars.

For erecting marine barracks, the sum of twenty thousand dollars.

For maintenance of French prisoners, the sum of thirty thousand dollars.

For making up deficiency of former appropriations for the maintenance of French prisoners, the sum of forty-five thousand dollars.

Sec. 2. *And be it further enacted*, That the several appropriations hereinbefore made shall be paid out of the unexpended balance of appropriations for the navy, at the close of the last year, and out of any other moneys in the Treasury not otherwise appropriated.

Approved, March 3, 1801.

An Act directing the mode of estimating certain foreign coins and currencies, and of making out invoices in certain cases.

Be it enacted, &c., That, from and after the passing of this act, the foreign coins and currencies hereinafter mentioned, shall be estimated in the computation of duties at the following rates: each sicca rupee of Bengal, and each rupee of Bombay, at fifty cents; and each star pagoda of Madras, at one hundred and eighty-four cents; anything in any former act to the contrary notwithstanding.

Sec. 2. *And be it further enacted*, That, from and after the thirtieth day of June next, the invoices of all goods imported into the United States, and subject to a duty ad valorem, shall be made out in the currency of the place or country from whence the importation shall be made, and shall contain a true statement of the actual cost of such goods; in such foreign currency or currencies, without any respect to the value of the coins of the United States, or foreign coins which now are,

or shall be by law made current within the United States in such foreign place or country.

Approved, March 3, 1801.

An Act to augment the salaries of the District Judges in the districts of Massachusetts, New York, New Jersey, Delaware, and Maryland, respectively.

Be it enacted, &c., That, instead of the compensation at present allowed to the district judges for the districts of Massachusetts, New York, Delaware, and Maryland, respectively, there shall hereafter be allowed to the district judge for the district of Massachusetts, the yearly salary of sixteen hundred dollars; to the district judge for the district of New York, the yearly salary of sixteen hundred dollars; to the district judges of the districts of New Jersey and Delaware, the yearly salaries of twelve hundred dollars each; and to the district judge for the district of Maryland, the yearly salary of sixteen hundred dollars, to be paid at the Treasury of the United States in quarterly payments.

Sec. 2. *And be it further enacted*, That, for the year one thousand eight hundred and one, there shall be appropriated the sum of eight hundred dollars, to satisfy the additional compensation hereby allowed to the district judges, to be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, March 3, 1801.

An act in addition to an act, entitled "An act making provision for the further accommodation of the household of the President of the United States."

Be it enacted, &c., That the Secretary of the Treasury be authorized to appoint a proper person, who shall receive the public property belonging to the household of the President of the United States, and, after taking an inventory of the same, shall deliver it, after the third day of March instant, to the President of the United States.

Sec. 2. *And be it further enacted*, That such articles of the furniture belonging to the President's household as may be decayed, out of repair, or unfit for use, and as the President of the United States, for the time being, may direct, and all the public property, other than furniture, now belonging to the said household, shall be sold, under the direction of the Heads of the several Departments of State, of the Treasury, of War, and of the Navy; and that the proceeds of such sales be expended, in addition the funds already appropriated for that purpose, under the direction of the same officers, for the purpose of providing furniture for the house erected for the accommodation of the President of the United States.

Approved, March 3, 1801.

An Act for altering the times and places of holding certain courts therein mentioned, and for other purposes.

Be it enacted, &c., That the circuit courts of the United States within the districts of Maine, New Hampshire, Massachusetts, and Rhode Island,

shall, after the passing of this act, commence and be respectively held on the several days hereinafter expressed, instead of the times heretofore established by law, that is to say: in and for the district of Rhode Island, at Providence, on every first day of April, and at Newport on every eleventh day of November; in and for the district of Massachusetts, on every eighth day of April and twenty-fifth day of October; in and for the district of New Hampshire, at Portsmouth, on every twenty-third day of April, and at Exeter on every fifteenth day of October; in and for the district of Maine, at Portland, on every first day of May, and at Wiscasset, on every sixth day of October, except when any of those days shall happen on a Sunday, and then the session shall commence on the next day following.

SEC. 2. *And be it further enacted*, That all actions, suits, process, and other proceedings, of what nature or kind soever, depending and undetermined before the circuit courts aforesaid, respectively, or that shall be depending and undetermined on the first day of April next, before the district court for the district of Maine, acting as a circuit court, shall be continued to the next circuit courts, respectively, hereby directed to be holden in and for the districts aforesaid, respectively.

SEC. 3. *And be it further enacted*, That all writs and processes which have been, or shall be duly sued out and made returnable to either of the circuit courts aforesaid, or to the district court for the district of Maine, acting as a circuit court, on either of the days on which the same courts were respectively to have been held prior to the passing of this act, and all recognizances that have been, or shall be, duly taken and made so returnable, (said writs and processes having been duly and seasonably served,) shall be returned to and proceeded upon in the said next circuit courts, respectively, which are next to be holden in and for the districts aforesaid, respectively, as hereby directed; and all property attached by virtue of such writs or processes, shall be held in due form of law, to respond the final judgments that shall be obtained upon the same, respectively.

SEC. 4. *And be it further enacted*, That the district courts of the United States, in the State of North Carolina, shall, after the passing of this act, commence and be held on the several days hereinafter expressed, instead of the times heretofore established by law, that is to say: at Edenton, in and for the district of Albemarle, on every last Monday of March, third Monday of June, and last Monday of November; at Newbern, in and for the district of Pamlico, on every first Monday of April, fourth Monday of June, and first Monday of December; and at Wilmington, in and for the district of Cape Fear, on every second Monday of April, first Monday of July, and second Monday of December.

SEC. 5. *And be it further enacted*, That all actions, suits, writs, process, pleadings, and other proceedings, commenced, instituted, depending, or existing, in the district courts of the district of New Jersey and North Carolina, at the time of the passing of this act, shall be continued in man-

ner following, that is to say: all such commenced, instituted, depending, or existing, in the district court of the district of New Jersey, to the next district court to be holden in the district of East Jersey; and all such commenced, instituted, depending, or existing, in the district court of the district of North Carolina, shall be continued to the next district court to be holden in the district of Pamlico.

SEC. 6. *And be it further enacted*, That from and after the passing of this act, the circuit court of the United States for the district of Kentucky shall be holden at Frankfort, within and for said district, on the days already established by law, instead of at Bairdstown, anything in any other law to the contrary notwithstanding.

SEC. 7. *And be it further enacted*, That the chief judge of the district of Columbia shall hold the district courts of the United States in and for the district of Potomac, and shall have, exercise, and perform, within the said district of Potomac, all the powers and duties now possessed, exercised, and performed, by the district judges of the United States within their respective districts.

Approved, March 3, 1801.

An Act to amend the act entitled "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States," and to repeal the act entitled "An act to enlarge the powers of the surveyors of the revenue."

Be it enacted, &c., That each surveyor of the revenue who has been or shall be appointed under the act entitled "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States," after completing the lists of the sums payable for every dwelling-house and slave within the district to which such surveyor does or shall belong, and delivering the same to the collector of the revenue, and after taking receipts for such lists from the collector, in the manner provided by the act entitled "An act to lay and collect a direct tax within the United States," shall transmit to the supervisor of the district, or to the inspector of survey, in any district comprehending more than one survey of inspection to which such surveyor does or may belong, the receipts given by the collector for such lists, together with all the records of the lists, valuations, and enumerations, which he has received or shall receive, or which doth or shall exist in his office, under authority of the act first mentioned; and it shall be the duty of such supervisor or inspector to receive such receipts, records, and papers, and safely to preserve the same.

SEC. 2. *And be it further enacted*, That so much of the act entitled "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves," as makes it the duty of the surveyors of the revenue to record the transfers of lands or dwelling-houses included in the said valuations, and to view and apportion the value of such land or dwelling-houses as shall be divided by sale or partition, and to value and assess new dwelling-houses and lands which are exempted,

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but which shall cease to be exempted from taxation by the laws of the State where the same shall be situated, and to cancel or reduce the valuation of dwelling-houses which may be damaged or destroyed by fire or other accidents, shall be and the same is hereby repealed.

SEC. 3. *And be it further enacted*, That the act entitled "An act to enlarge the powers of the surveyors of the revenue," passed on the thirteenth day of May, in the year one thousand eight hundred, shall be and the same is hereby repealed.

Approved, February 27, 1801.

An Act further to alter and to establish certain post roads.

Be it enacted, &c., That the following post roads be discontinued:

From Lancaster to New Holland, in Pennsylvania.

From Greenville, in Tennessee, by the Warm Springs, to Buncomb Court-house.

From Elizabeth City, in North Carolina, by New Lebanon, to Northwest river bridge.

From Upper Marlborough to Piscataway.

From Henderson Court-house to Muhlenberg Court-house.

SEC. 2. *And be it further enacted*, That the following be established as post roads:

In Maine—From Standish to Fryburg.

In New Hampshire—From Amherst, by Franconstown, Washington, and Claremont, to Windsor, in Vermont.

In Vermont—From Bennington to Brattleborough.

From Newbury, by Bradford, Corinth, Washington, and Barre, to Montpelier.

In Massachusetts—From Leominster, through Westminster, Templeton, and Athol, to Greenfield.

From Worcester, by Mendon, to Providence, and from Worcester to Lancaster.

In Rhode Island—From Providence, by Rehoboth and Attleborough, to Taunton, Massachusetts.

In New York—From Albany, by Duanesburg and Durlock, to Cherry Valley.

From Poughkeepsie, by Sharon, to Litchfield.

In Delaware—From Georgetown, by Concord and the village of Laurel, to Salisbury.

In Maryland—From Annapolis to Easton, by Young Haddaways.

From Annapolis to Centreville, by Kent Island.

From the City of Washington to Piscataway.

From Elkton, by Warwick and Bridgetown, to Greensborough, in Caroline county.

From the City of Washington, by Brookville and W. Hobbs's, in Frederick county, to Taneytown.

From the City of Washington to Wiley's tavern, in Fairfax county, Virginia.

In Pennsylvania—From Pittsburgh, by Georgetown and Canfield, to Warren, in the Northwestern Territory.

From Berwick to Wilkesbarre.

In Virginia—From Richmond to Charles City Court-house.

* From Clarkesburg to Marietta.

From Romney to Morganton or Clarkesburg.

From Alexandria, by Thomas's ferry, to Piscataway, in Maryland.

From Halifax Court-house to Danville.

From Bowling Green, by Broadus's mill, S. Harrison's, and Dunkirk, to New Kent Court-house.

The post road from Jerusalem to Hicks's ford shall pass by the Cross-keys, and from the Cross-keys to Murfreesborough.

From Petersburg, by Sussex Court-house, to Southampton Court-house.

From Jamestown to Farmville.

The mail from Mecklenberg Court-house, in Virginia, to Christianville, shall be carried by Marshall's and Wilson's store.

In the Northwestern Territory—From Cincinnati to Detroit.

In Indiana Territory—From Vincennes, by Kaskaskias, to Kahokia.

In Kentucky—From Harding Court-house to Breckenridge Court-house, to Henderson Court-house, Eddy Grove, and Eddyville, to Fort Massac.

From Breckenridge Court-house, by Hartford and Vienna, to Muhlenberg Court-house.

In Tennessee—From Knoxville, by Sevierville, Newport and the Warm Springs, to Buncomb Court-house.

From Newport, by Cheek's cross roads, to Oresville.

In the Mississippi Territory—From Natchez to the southern boundary line of the United States.

In North Carolina—The post road from Raleigh to Chatham Court-house shall pass through Haywoodsborough.

The post road from Raleigh to Newbern shall pass through Green county.

From Elizabeth City to Indiantown and Tull's creek to Northwest river bridge.

The post road from Winton to Windsor shall pass through Pitch landing and Colerain.

From Louisburg, by Nash Court-house, to Tarborough.

From Charlotte Court-house to York Court-house, in South Carolina.

From Charlotte to Camden, in South Carolina.

SEC. 3. *And be it further enacted*, That all letters and packets from John Adams, now President of the United States, after the expiration of his term in office, and during his life, shall be received and conveyed by post free of postage.

SEC. 4. *And be it further enacted*, That this act shall not be construed to affect any existing contracts.

Approved, March 3, 1801.

An Act for erecting light-houses on New Point Comfort, and on Smith's Point, in the State of Virginia, and on Faulkner's Island, in Long Island Sound, in the State of Connecticut, and for placing buoys in Narraganset Bay.

Be it enacted, &c., That as soon as a cession shall be made by the State of Virginia to the United

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States, of the jurisdiction over the land proper for the purpose, the Secretary of the Treasury be, and he is hereby, authorized to provide by contract, to be approved by the President of the United States, for building a light-house on New Point Comfort, and another light-house on Smith's Point, both in the State aforesaid, and to furnish the same with all necessary supplies; and, also, to agree for the salaries or wages of the persons who may be appointed by the President for the superintendence and care of the same, and that the President be authorized to make the said appointments.

SEC. 2. *And be it further enacted*, That as soon as a session shall be made by the State of Connecticut, of the jurisdiction over the land proper for the purpose, the Secretary be, and he is hereby, authorized to provide by contract, to be approved by the President of the United States, for building a light-house on Faulkner's Island, in Long Island Sound, in the said State of Connecticut, and to furnish the same with all necessary supplies, and also to agree for the salaries or wages of the person or persons appointed by the President for the superintendence and care of the same, and that the President be authorized to make the said appointments.

SEC. 3. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to cause to be placed one buoy on the shoal south of Kinnimicut Point, and one buoy on a ledge called the Half Way Rock, in the Narraganset Bay, in the State of Rhode Island.

SEC. 4. *And be it further enacted*, That there

be appropriated and paid out of the moneys arising from imports and tonnage, the sum of five thousand dollars for the purpose of erecting the light-house as aforesaid on New Point Comfort; the sum of nine thousand dollars for the purpose of erecting the light-house as aforesaid on Smith's Point; the sum of six thousand dollars for erecting the light-house as aforesaid on Faulkner's Island, in Long Island Sound, and the sum of one hundred and fifty dollars for placing two buoys as aforesaid in the Narraganset Bay, in the State of Rhode Island.

Approved, March 3, 1801.

Resolution respecting certain property of the United States in the possession of Thomas Claxton, James Mathers, and Thomas Dunn, Doorkeepers to Congress.

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That Thomas Claxton, James Mathers, and Thomas Dunn, be permitted to occupy, free of rent, until otherwise directed by Congress, the houses now in their respective possession, the property of the United States, in the public square in the City of Washington on which the Capitol stands, together with a small piece of ground contiguous to each, for a garden, to be enclosed in such a manner as not to interfere with any of the public streets or avenues passing through the said square.

Approved, March 2, 1801.